UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCIS P. SALEMME, and
PAUL M. WEADICK,

Defendants.

Criminal Action
No. 16-10258-ADB

May 16, 2018

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TRANSCRIPT OF JURY TRIAL DAY 9
BEFORE THE HONORABLE ALLISON D. BURROUGHS
UNITED STATES DISTRICT COURT
JOHN J. MOAKLEY U.S. COURTHOUSE
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BOSTON, MASSACHUSETTS 02210

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P R O C E E D I N G S

THE COURT: Everyone ready? I'm going to bring the jury in.

THE CLERK: All rise.

(The jury enters the courtroom.)

THE CLERK: Court is in session. Please be seated.

THE COURT: Thank you again for being right on time. You guys are fantastic. Government, Mr. Ferland, call your witness, please.

MR. FERLAND: Edward Principe.

THE CLERK: Can you please raise your right hand.

(EDWARD PRINCIPE duly sworn by the Deputy Clerk.)

THE CLERK: You may be seated.

THE COURT: Do me a favor before you sit down and scoot your chair left. Some of the attorneys can't see you. Every day we move it left and every day the cleaning people move it back.

THE CLERK: Can you please state your name and spell your last name for the record.

THE WITNESS: My name is Edward Principe, P-R-I-N-C-I-P-E.

DIRECT EXAMINATION

BY MR. FERLAND:

Q. Good morning, sir. How are you employed?

A. I am an attorney.

Q. How long have you been employed as an attorney?
A. For 11 years.
Q. What did you do prior to that?
A. I was assigned to the Massachusetts State Police. I was a trooper.
Q. How long were you a Mass. State Trooper?
A. 21 years.
Q. Did you serve in various units within the State Police?
A. I have, sir.
Q. What units have you served in?
A. I started out in patrol. Like most of the troopers I did five years out in the middle of the state, the Leominster barracks, from '86 to '91. Years '91 and '92 I worked in the organized crime vice control unit. And from '92 to '95 I worked in the Suffolk County homicide unit.

Shortly thereafter I went to a DEA task force here in Boston, and I finished my career in public relations out at headquarters.

Q. I want to focus your attention at the time that you were in the organized crime special services section. Were you assigned to investigate the La Cosa Nostra?
A. I was.
Q. And as part of your duties investigating the La Cosa Nostra, did you have occasion to conduct physical surveillances?

A. I did.
Q. Prior to conducting your physical surveillances, did you have occasion to familiarize yourself with certain of the players, if you will, in the LCN?
A. Yes, I did, sir.
Q. Were you familiar with an individual by the name of Francis P. Salemme, Sr.?
A. I was.
Q. How about his son Frank, Jr.?
A. I was familiar with him as well.
Q. As far as conducting your surveillances are concerned, did you become familiar with any of the vehicles that were regularly operated by these folks?
A. I did.
Q. I want to direct your attention, if I can, to December 15, 1991, quite some time ago I realize. Were you involved in conducting a physical surveillance on that date?
A. Yes, I was, sir.
Q. And on that date do you recall who, if anyone, you observed?
A. Yes. I recall observing both Mr. Salemme, Sr., and Mr. Salemme, Jr., right here in the Seaport area.
Q. Sir, as it relates to Mr. Salemme, Jr., did you see what vehicle he was operating on that occasion?
A. Yeah, I did. I did see the vehicle.

Q. Do you recall the license plate on that vehicle?
A. It was 176VDK, Victor Delta Kilo.
Q. On that occasion in addition to seeing Mr. Frank Salemme, Jr., you also indicated you also saw the father; is that correct?
A. I did.
Q. And did you actually see Mr. Frank Salemme, Jr., operating that vehicle, 176VDK?
A. I actually saw him park the vehicle, yes.
Q. I want to jump ahead to the follow month, I believe it's January 4, 1992. Were you involved in a physical surveillance on that occasion?
A. I was.
Q. And do you recall who, if anyone, you observed?
A. That day there were three parties involved. In addition to Mr. Salemme, Sr., Mr. Salemme, Jr., there was also a party from East Boston, Mr. Mark Rosetti.
Q. Were you familiar with Mark Rosetti?
A. Very much so.
Q. Was he an individual that you had provided physical surveillance to both prior to and subsequent to that?
A. Very much so.
Q. You indicated you observed Mr. It Salemme, Jr., did you see what vehicle he was operating on that occasion?
A. He was in the same vehicle that he was the month before.

Q. That 176VDK?
A. That is correct.
Q. Did you come to learn who that vehicle was registered to?
A. I did.
Q. Who was that, sir?
A. It was Mr. Weadick.

MR. FERLAND: No further questions.

CROSS EXAMINATION

BY MR. BOOZANG:

Q. Good morning, sir.
A. Good morning, sir.
Q. Now, other than the two dates Mr. Ferland spoke about, there were a number of other dates where you conducted surveillance, correct?
A. That is correct.
Q. And Frank, Jr., had a couple of vehicles during the course of that period that he would use, correct?
A. That's very possible, yes, sir.
Q. And do you recall a green Chevy, Chevrolet? I know it was a long time ago.
A. To be honest with you, I don't recall that at this time.
Q. And Frank, Sr., had a Ford Explorer, Eddie Bauer, a blue one. Do you recall?
A. I don't recall that one either, sir.
Q. And when you came in here you recited to plate 176VDK,

that wasn't out of memory, that was out of preparation? Your memory is not that good, is it?

A. Absolutely, sir.

Q. Neither is mine. During the course of your investigation and experience, some of these individuals would use various vehicles, correct?

A. Again to the best of my ability other than one particular party, I don't recall anyone driving a vehicle that was registered during this time.

Q. To themselves?

A. To themselves.

Q. But they'd often drive different vehicles, correct?

A. Correct.

Q. Thank you, sir.

CROSS EXAMINATION

BY MR. SHEA:

Q. Good morning.

A. Good morning, sir.

Q. So let's start off. Obviously you're not, as was confirmed by Mr. Boozang, you're not testifying from memory from 1991. You've prepared for your testimony today?

A. That's correct, sir.

Q. And you prepared for your testimony today by meeting with the government, correct?

A. That's correct, sir.

Q. Which attorney from the government or both?
A. Both.
Q. Both. Okay. And they provided you with the reports?
A. That's correct, sir.
Q. You don't have old surveillance reports around your home, correct?
A. The reports I was provided with.
Q. Okay. So when you're testifying today you're testifying based on what reports they showed you in preparation, right?
A. For the most part, yes.
Q. Just to keep things simple, let's start with what was cover by Mr. Ferland. December 15 of '91. Well, first off you've never seen Paul Weadick, correct?
A. I've never seen him in my life.
Q. And he wasn't the subject or the target of any of your surveillance, correct?
A. That's correct, sir.
Q. Now, on the 15th, have you had a chance to review the kind of handwritten surveillance report from that date?
A. I have.
Q. Okay. Mr. Ferland asked you about the license plate number, correct?
A. That's correct.
Q. Of the vehicle Mr. Salemme, Jr., was operating?
A. Correct.

Q. But other details that are important in surveillance -- well, there are a number. One would be the make and model of the car, correct?
A. Yes, sir.
Q. Description of the car like the color of the car, correct?
A. Yes, sir.
Q. If you were surveilling particular individuals who were unknown to you, it would be important to write down accurate descriptions of those individuals so you could try and figure out who they were later, correct?
A. Yes, sir.
Q. And that's a part of what's going on with these surveillance reports, correct?
A. Yes, sir.
Q. And in this particular report do you recall writing down that you observed, and this is in relation to mass registration 176VDK, that it was a blue Mercury?
A. I did not write the report, sir.
Q. Okay. But your partner was a Trooper Hughes at the time?
A. Frank Hughes, that's correct.
Q. And he apparently penned the report, correct?
A. I believe he did, yes, sir.
Q. And you reviewed that report for today?
A. Right.

Q. And you reviewed that report back in time with Trooper Hughes?
A. That is not correct.
Q. But certainly they asked you to review it in preparation today?
A. And I did review it.
Q. And they wanted you to make sure it was accurate, correct?
A. To the best of our knowledge, yes.
Q. And that's what they wanted you to testify about?
A. That's correct, yes.
Q. In the report it says, "Trooper Principe observes a blue Mercury." Do you see that?
A. I do, yes.
Q. Then the registration is 176VDK, correct?
A. That's correct.
Q. Now Trooper Hughes had described it as a black Mercury, correct?
A. That's correct.
Q. Okay. So then Mr. Ferland asked you if you had checked with the Registry of Motor Vehicles regarding this vehicle, correct?
A. I don't believe that was his exact question if I had checked. But a Registry check was performed at one time.
Q. Okay. And let me show you a printout from the mass

Registry of Motor Vehicles one day after this surveillance report. Just so everybody knows, that says Mass. Registry of Motor Vehicles, correct?

A. Yes, sir.

Q. And it's the kind of CJIS display, it's the kind of thing that state troopers would have access to?

A. That's correct.

Q. Above vehicle information, correct?

A. Yes, sir.

Q. And it does have the license plate number you testified to, 176VDK, correct?

A. Yes, sir.

Q. And it does say that that's Mr. Weadick's correct?

A. Yes, sir.

Q. But can you tell us what kind of automobile it was, the day after?

A. This says it's a 1982 Olds Delta 88.

Q. What's it saying it's the color?

A. It's saying it's green/white.

Q. And it's fair to say that -- here, let me give you the 12/15 report back. The nowhere in there does it say that the car you observed was green and white, right?

A. No, sir.

Q. It doesn't say that Trooper Hughes observed a green and white motor vehicle, correct?

A. No, sir.
Q. Nowhere does it say that anyone observed an Olds Delta 88, does it?
A. Not to my knowledge.
Q. Okay. And you've acknowledged that those are the kind of significant details that lead to an accurate surveillance report, correct?
A. Yes, sir.
Q. I believe the next -- oh, just so we get at actually what was happening that particular evening, it appears that Mr. Salemme and Mr. Salemme, Jr., went to the Eastern Pier Seafood. Meaning a father and son met and went out to dinner?
A. That's correct.
Q. Actually sticking to that day for one more thing. From Mr. Salemme, Sr., it appears that a CJIS was run the following day, 12/16 regarding the motor vehicle of Mr. Salemme, Sr. If I were to show you a Registry printout, would that help you link up the license plate you observed that evening with the report?
A. Sure.
Q. Okay. The registration here is 727ABF which is the license plate on the vehicle for Mr. Salemme, Sr. -- oh of course.
A. Sorry.

Q. Anyway. That's the license plate that Mr. Salemme, Sr., was driving that night. Do you know that?
A. Yeah. That I believe is the plate that was on his vehicle.
Q. Okay. And his vehicle was -- and we're talking about 1991, December of '91. He's driving in a '92 Ford Crown Vic, right?
A. I believe so.
Q. So not a nine-year old car, a new make, right?
And who owns that? Like when you run it, it doesn't come back to somebody. It comes back to Rodman Ford, right?
A. That's correct.
Q. Okay. Thank you. Now, I believe the next date that Mr. Ferland had asked you about was January 4 of '92; is that correct?
A. Yes.
Q. And on that particular date, I guess, Mr. Salemme, Jr., was in the company of his father and Mark Rosetti?
A. Correct.
Q. And on that particular day I know you testified as to the license plate number. The description of the car continues to be that it is a blue Mercury Marquis, correct?
A. Yes.
Q. And even as you go down the report it's Rosetti, and his

own vehicle is following the Mercury, correct?
A. Yes, sir.
Q. And you guys, meaning you and your fellow trooper, are following the Mercury, correct?
A. Yes, sir.
Q. And you're keeping an eye on the Mercury, correct?
A. Yes, sir.
Q. And that's what you're surveilling, correct?
A. Yes, sir.
Q. And in a surveillance out in traffic -- I know traffic wasn't as bad in Boston then as it is today, but even then the thing that you have an easier time seeing is the make and model of the car than the license plate. Fair to say?
Meaning if the car is four or five car lengths in front of you at a light and there are other cars in between, the license plate can be obscured. True?
A. Correct.
Q. Whereas you can still see the color, right?
A. Yes, sir.
Q. You can still see the make and model?
A. Yes, sir.
Q. And on that particular occasion, you were following a blue Mercury, right?
A. Correct.
Q. And Salemme, Jr., was in this a blue Mercury, right?

A. Correct.
Q. I want to show you one other thing. It appears sometimes -- I know these two reports went to you through Trooper Hughes, correct?
A. Yes, sir.
Q. I feel a handwritten report from 3/19/92, and it's Bates 18279. You were with a Trooper Cahill on that particular occasion. Did you sometimes work with a Trooper Cahill?
A. I did.
Q. And it says that Trooper Cahill received a beep from the Frank Salemme, Jr., beeper. Does that sound accurate?
A. I can't speak to that exact data exact time. I've not reviewed the report. But it's something that happened on a regular basis.
Q. Okay. Let me show you the report so you're more comfortable speaking to it. Feel free to read it. It's only a paragraph.

And so it appears that he got a beep from a beeper associated with a Mr. Salemme, Jr., correct?
A. Yes, sir.
Q. So does that mean you had a tracking device on Mr. Salemme, Jr.?
A. No, that doesn't.
Q. Okay. I'm asking honestly?
A. Okay. No.

Q. So when you receive a beep from Frank Salemme, Jr.,'s beeper which was located at the Marriott Long Wharf, then you made observations of Mr. Salemme, Jr., on the phone, I assume, at the Marriott Long Wharf, right?

A. Correct.

Q. Okay. But there was some information that was received on a State Police beeper telling you that you could locate Mr. Salemme, Jr., there?

A. The way this worked out at the Long Wharf Marriott is there was a bank of phones, maybe 10 to 12 phones, that originally I had gone and done a surveillance of the area and marked down all the phones in that hotel. These are all public pay phones at the time. And public pay phones were used quite often by the gentlemen in this investigation.

What happened is there was a clone beeper and the beeper would indicate where the phone was going to. There were many days where I did surveillance at the Long Wharf Marriott, and I would get a heads up from the surveillance room that there was going to be a meet. And we were able to pinpoint where that meet was by the beeper, and I would just go and confirm that it, in fact, was Mr. Salemme's son going to the phone and using it. And this is something I observed on numerous occasions.

Q. Okay. You did that on numerous occasions. It appears the surveillance reports that I have track from '91 through

'92 roughly?
A. That was when I was in that unit. I was in that unit from the middle of June of '91 until September 14 of '92.
Q. So in all those times you received more than one beep regarding Mr. Salemme, Jr., correct?
A. Yes.
Q. And in all the times that you did surveillance of Mr. Salemme, Sr., Mr. Salemme, Jr., the only two reports you could find where that license plate number is even in your report, and I'm talking about reports that you dealt with, not your other -- not the other troopers, but things that you dealt with yourself.

The only two reports you could find or were provided to you by the government in preparation were the two that you and you just went through regarding the blue Mercury?
A. And let me answer that in two separate questions that you asked. I did not go back looking through reports. I only went to the reports that I was provided with. So I can't say if there are other times where I saw Mr. Salemme, Jr., in that vehicle. I can certainly tell you there were other times that I saw Mr. Salemme, Jr., at that Long Wharf Marriott.
Q. Right.
A. But I did not go through the list of reports that were

generated during that year and a half period I was there.
Q. The point is he may well have been in other vehicles, correct? But you weren't shown those reports, were you?
A. I --
MR. FERLAND: I object. Mischaracterization.
MR. SHEA: I'll try and make it so he's not upset.
BY MR. SHEA:
Q. What you're saying is it's not like you went back to the State Police barracks and went through any every old report, correct?
A. Correct.
Q. What you did is you came in and met with the prosecutors in this case, right?
A. Yes, sir.
Q. And they provided you with the reports that you reviewed, right?
A. Yes, sir.
Q. So to make it simple, you did a great deal of surveillance of Mr. Salemme, Jr., correct?
A. Correct.
Q. And you even knew as we get from that report I was showing you with Trooper Cahill that you knew locations to watch for him to go to, correct?
A. Yes, sir.
Q. And so what I'm saying is of all of those observations of

Mr. Salemme, Jr., the only two reports that you saw in preparation for your testimony here today that had your name on it, meaning you participated, were the two that we had just gone through from -- meaning the two -- one from 1/4/92 and the other from 12/15/91?

A. I seen Mr. Salemme, Jr., in many of those reports.

Q. I'm sorry. You're correct. What I mean is the only two with the license plate number that they had you testify to?

A. For the most part every time I saw Mr. Salemme, Jr. it was on foot. It was very rare that I saw him in a vehicle.

Q. Well, the only two times, two reports, where this license plate is affiliated is on the two reports you testified to over the course of two years?

MR. FERLAND: Objection.

THE COURT: Basis?

MR. FERLAND: That's a fact that's not in evidence. He's already testified to the fact that he has only two reports in his name. He's implying through the question that that's the universe of reports.

THE COURT: It's overruled. He can answer the question.

A. May I have the question again, please?

BY MR. SHEA:

Q. Sure. What I'm saying is, just so it's clear, you did a lot of surveillance reports, right?

A. Correct.
Q. And you did a lot of surveillance, right?
A. Correct.
Q. And out of the universe of those surveillance reports, the two that the government showed you with a particular Mass. registration number 176VDK was just one on December 15 of '91, and the other is, I believe, January 4 of '92, correct?
A. Yes.
Q. You just said you didn't think you saw him driving. Sometimes Mr. Salemme, Jr., was in the company of a Mr. Rosetti, correct?
A. I don't believe I've ever seen the two of them in the car together.
Q. Okay. Let me show you report, November 19, 1991, 17409. Now, what happens in these reports is you list subjects and locations, correct?
A. Yep.
Q. And in this particular one we see on the subject line there's Frank, Sr., and Frank Jr., right, meaning the Salemmes?
A. Yes, sir.
Q. And Mark Rosetti, right?
A. Yes, sir.
Q. And the participating officers are Macauley and yourself?

A. Yes.
Q. There are other people involved like George Kaufman and Steve Flemmi, right?
A. Yes, sir.
Q. And George Kaufman and Steve Flemmi are together, right?
A. Yes.
Q. I'm jumping ahead, but at the end it says, "subject Salemme, Jr., and Rosetti get into a red maroon" --
A. Lincoln.
Q. Lincoln.
A. That's Mr. Rosetti's vehicle.
Q. Mass. registration, correct?
A. Correct.
Q. So you said that you didn't have a memory of seeing the two of them together. This is a report of surveillance you did actually showing the two of them together, correct?
A. You said if I saw them together in a car.
Q. Okay.
A. I've seen them together, but your question previously was did I see them together in a car. I don't recall seeing them previously in a car, and I am not sure that I saw them in the car.
Q. But either you or Macauley, and you were together on surveillance that day, correct?
A. Correct.

Q. And it's November 19, '91, right?
A. Yes, sir.
Q. Either you or Macauley observed Salemme, Jr., and Rosetti together in a car, right?
A. One of us did.
Q. Yeah. And it wasn't the 176VDK?
A. No. It would have been -- the Lincoln is Mr. Rosetti's vehicle.
Q. Red maroon, 782SSJ?
A. I'm not sure of the plate. I know that's what it says there. My memory of the plate is not that accurate.
Q. Not that accurate?
A. I don't recall it. Today I do not recall that.
Q. And how many times had you seen Mr. Rosetti before?
A. Many times.
Q. Many times. And you'd seen him in that car?
A. I have.
Q. And you don't recall that plate, correct?
A. Yes. I don't recall that plate.
Q. And the plate 176VDK, there are only two surveillance reports with your name on it that have that license plate, correct?
A. Correct.
Q. So you saw that far less than you saw Mr. Rosetti's license plate?

A. That's correct.

MR. SHEA: Nothing further.

REDIRECT EXAMINATION

BY MR. FERLAND:

Q. As part of your practice as an attorney here in the State of Massachusetts, do you do any criminal defense work?

A. Yes, I did.

Q. When you are preparing for a trial or a hearing, do you meet with your witnesses that you as a defense attorney are going to call?

A. It would be malpractice not to.

Q. Sir, when you meet with your witnesses that you're going to call as a criminal defense attorney, do you direct their attention to certain documents or paperwork that you want them to review in anticipation of their testimony and appearance at the hearing?

A. Yes, sir.

MR. SHEA: Object to not the subject matter, just the leading nature.

THE COURT: Overruled.

BY MR. FERLAND:

Q. Now, as it relates to your appearance here today, you met with the government on at least two occasions, correct?

A. Yes, sir.

Q. And in preparation for your testimony, there were a

voluminous number of surveillance reports. Would you agree with that characterization?
A. Yes, sir.
Q. And you knew that one of the things that -- one of the focuses of this trial was an individual by the name of Paul Weadick, correct?
A. Yes, sir.
Q. All right. And as it related to physical surveillances that you conducted, the focus of attention for you as a retired state trooper was to identify vehicles registered to Paul Weadick, correct?
A. Yes, sir.
MR. SHEA: Objection.
THE COURT: Sustained.
BY MR. FERLAND:
Q. All right. Would it be fair to say that you were able to locate reports of a vehicle registration plate that came back to Paul Weadick?
A. Yes.
Q. Okay. Now, you would agree with me that you're trying to keep your surveillances on the down-low, correct?
A. Absolutely.
Q. So you're not going to stop the vehicle from being unregistered, are you?
A. No.

THE COURT: Mr. Ferland, stop leading him.

MR. FERLAND: I will, Your Honor. Thank you.

BY MR. FERLAND:

Q. In those reports that you were shown, was there a physical description of the vehicle?

A. Yes.

Q. Would it be fair to say that the vehicle at the time you observed it was apparently unregistered?

MR. SHEA: Objection.

THE COURT: What's the basis? Leading?

MR. SHEA: Also -- could we approach?

THE COURT: Yes.

(Bench conference held.)

MR. SHEA: I'm just -- I'm objecting because -- sorry. I'm used to the white noise.

THE COURT: You were here before and the only one that was capable of whispering.

MR. SHEA: I won't lose that one standing that I have. So the documents provided to me by the government seem to indicate that the vehicle is insured. They have the appropriate address. It looks like it's registered because they did a registration and title inquiry.

THE COURT: Let him respond.

MR. FERLAND: Judge, defense counsel has done a wonderful job of establishing the fact that this was a

situation of misuse of the registration plate. Clearly the vehicle plate was affixed to a vehicle other than that in which it was supposed to be affixed which would mean logically that that vehicle was unregistered.

THE COURT: He can ask the question. No. It's his exam.

MR. WEINSTEIN: Either way.

THE COURT: So what's the objection to the question?

MR. SHEA: So what he's trying to say is that they took my client's plate and put it on another car.

MR. WYSHAK: Yes. That's not too hard to figure out.

THE COURT: You want to suggest he made a mistake, and you want to suggest the it's on the wrong car. You both make your point and the jury can sort it out.

MR. FERLAND: Mr. Crowe, did you say --

MR. CROWE: I think it's fairly blatant leading.

THE COURT: I agree. Any question that begins "would it be fair to say" is not an appropriate question. Okay?

MR. FERLAND: Very well.

(End of bench conference.)

MR. FERLAND: I was asking the Court may I have the steno repeat the question.

(The reporter read back as was requested.)

THE COURT: So the question is leading. Rephrase the question.

BY MR. FERLAND:

Q. Sir, if a vehicle license plate is on a motor vehicle, and the motor vehicle as described in the registration data is different than the vehicle to which the plate is affixed, is that vehicle properly registered?

A. The vehicle may be registered, but it's very possible that the plates had been switched, the registration was incorrect.

MR. SHEA: Objection. Motion to strike. Speculative.

THE COURT: Sustained.

BY MR. FERLAND:

Q. As it relates to your duties in the special services section and then later in other units within the State Police, particularly the narcotics unit, did you ever encounter situations where targets of your surveillance would engage in countersurveillance-type measures?

A. It's common practice.

Q. What sorts of common countersurveillance measures would these folks engage in?

A. They would use vehicles not assigned to them. They would use different plates on vehicles to throw the police off.

And as a matter of fact, it was kind of my particular practice I didn't drive with the official State Police registration tag on my vehicle. I had used some expired plates and changed them regularly.

Q. And was that something that you would routinely do to avoid detection?

A. That is correct.

Q. Now, there were some questions asked about Mr. Rosetti. It appeared from cross examination this was an individual you were familiar with; is that correct?

A. That is correct.

Q. Was he made member of the La Cosa Nostra?

A. It is my belief he was.

Q. Okay. And what was your understanding at the time in '91 when you were conducting these surveillances and observed Frank Salemme, Sr., and Jr., what their position was with the La Cosa Nostra?

A. They were at the pinnacle of the La Cosa Nostra for this area.

MR. FERLAND: Nothing further, Your Honor.

MR. BOOZANG: Sorry, Judge. Nothing from us.

RECROSS EXAMINATION

BY MR. SHEA:

Q. So it's fair to say it wouldn't be logical for you -- when you're doing a surveillance and you're trying to not be

noticed, you're not going to pull people over for violations, correct?

A. Very logical.

Q. In fact, it's the opposite?

A. Correct.

Q. Correct? So when they do things like take U-turns or go through a yellow to red at the last second or make evasive measures, take evasive measures, you actually aren't going to write them up for motor vehicle violations, correct?

A. We're trying to stay unnoticed. We do not stop vehicles that we're surveilling. We let them do what they need to do, and we try and keep up in a safe manner. Because of that, a lot of times we will lose surveillance.

Q. Again you said that you saw that plate number 176VDK?

A. Yes, sir.

Q. You have no idea if that was switched onto another vehicle, correct?

A. I know that is the plate that was on the vehicle that we saw on the pier.

Q. You don't yourself if it was switched, correct? Meaning that you ran the information the next day, correct?

A. Someone ran the information the next day.

Q. Okay. And you have no idea if the individual who had the plate registered to them or the car knew of the plate being taken, correct?

A. I would have no personal knowledge of that.
Q. Okay. And you were asked about Mr. Rosetti. Mr. Rosetti was seen in the company of Frank Salemme, Jr., quite a lot, correct?
A. I believe he had been a few times, yes.
Q. Okay. And one of the people you also surveilled was a George Kaufman, correct?
MR. FERLAND: Objection. It's outside the scope.
MR. SHEA: Well, he went well beyond the scope in his last three questions. He opened up the LCN --
THE COURT: Stop. Stop.
MR. SHEA: Sorry.
THE COURT: The basis of your objection is it went well beyond the scope. How many questions are you asking on this topic? Where are we going?
MR. SHEA: Two, three.
THE COURT: Go ahead.
BY MR. SHEA:
Q. So we mentioned before on my first cross about the listing of the people you surveilled, right?
A. Correct.
Q. I had you read some of those, right?
A. Yes, sir.
Q. I believe some of the people you surveilled, I was just asking were George Kaufman, Stephen Flemmi, correct?

A. Yes.
Q. And Mr. Kaufman and Mr. Flemmi were seen in each other's company quite a bit, correct?
A. Correct.
Q. And last question. In all those, that time period that you described from '91 into '92 that you did surveillance, at no time did you ever see Paul Weadick in the company of any of the people that we have listed here, correct?
A. As I stated earlier, this is the first time I've seen Mr. Weadick.
Q. Thank you.
THE COURT: All right. We don't usually have re-redirect.
MR. FERLAND: I'm all set, Your Honor. Thank you. No further questions.
THE COURT: Next witness, please. Feel free to stand up and move around a little bit while they're switching places.
MR. FERLAND: Joseph DeLuca, please, Your Honor.
Your Honor, the CSO informs me that the witness had stepped to the men's room.
THE COURT: Do you want to wait for him? Do you want to start with another witness?
MR. FERLAND: Joseph DeLuca, please, Your Honor.
Your Honor, the CSO informs me that the witness had

stepped to the men's room.

THE COURT: Do you want to wait for him? Do you want to start with another witness?

MR. FERLAND: He's here, Your Honor.

THE CLERK: Can you raise your right hand, please.

(JOSEPH DELUCA duly sworn by the Deputy Clerk.)

THE CLERK: You may be seated. Please state your name and spell your last name for the record.

THE WITNESS: Joseph DeLuca. Capital D-E capital L-U-C-A.

THE COURT: Mr. DeLuca, pick that microphone up so you're talking into it.

DIRECT EXAMINATION

BY MR. FERLAND:

Q. Good morning, sir.

A. Good morning.

Q. Could you tell the jury how old are you?

A. 78.

Q. Where did you grow up?

A. Providence, Rhode Island. Thank you.

Q. Do you have any siblings, any brothers and sisters?

A. Seven. Two are deceased.

Q. Who are your brothers?

A. Rocco, Bobby. Frank is deceased.

Q. Are you close with your brothers?

A. Yes.
Q. How about your brother Bobby? Are you close with your brother Bobby?
A. Yes.
Q. And growing up in Providence, did you become involved in criminal activity?
A. I did.
Q. What sort of criminal activity did you start -- find yourself involved in initially?
A. Hanging around, you know, the hubcap thing and all that. I got seriously into it around the middle '60s I suppose.
Q. When you say "seriously into it", what sorts of things were you doing in the mid '60s?
A. I returned from the west coast and I hooked up with a team of boosters that basically shoplifted, but they're more of an elite type of a group, high ticket items, you know, high priced men's suits. They showed me -- they were a generation higher than me. They showed me how to do it and was very successful at it. I learned quick.
Q. As a successful booster, would you sell these items to fences in the Providence?
A. Fences, yes.
Q. Okay. Being a successful booster, did you bring attention to yourself from any group or anyone?
A. Well, yeah, the fences. The fences, they wanted us to

sell to them. If that's --

Q. Okay. Anybody else want you to sell to them?

A. Once in a while we'd sell to private people. You know.

Q. Okay. And being involved in this sort of organized retail theft, did you come to know any members of organized crime?

A. Yes, I did. So to speak fringes, the beginning of fringes of organized crime. The fences were connected with organized crime. So that was kind of a stepping stone.

Q. Explain what you mean by that term "these fences were connected to organized crime"?

A. So to speak they were paying off organized crime to operate.

Q. And was that fairly typical of these sorts of illegal activities, having to pay up to the organized crime people?

A. Yes. They wanted to be more or less under the umbrella of the mob.

Q. And back then in the '60s and moving into the '70s, did you come to know who the boss of the La Cosa Nostra was?

A. Raymond Patriarca.

Q. Was that Raymond Patriarca the elder?

A. The elder.

Q. Okay. Did you come to know any of the capos in the Providence area?

A. Edward Imondi and Richard Calle.

Q. And was Richard Calle somebody that you became friendly with?

A. Very friendly, yes.

Q. What sorts of activities did you find yourself involved in?

A. He approached me -- I'm an avid hunter, fisherman, big game hunter and big game fisherman. He was in jail for quite a while. He read a lot about it, and he was trying to find somebody who knew what they were doing in that department, and someone told him that I did. So he approached me and I started to take him with me. You know.

Q. Did Mr. Calle have any sort of position or association with the La Cosa Nostra?

A. He was captain after Mr. Patriarca went to jail for a while.

Q. Now, in addition to Mr. Calle and the friendship you developed with him, did you come to know any other capos or members of the La Cosa Nostra?

A. Edward Imondi, Mulligan, Edward Mulligan. We called him Mulligan, nickname.

Q. I want to direct your attention now to sort of fast forward, if I could. Did you come to learn that your brother Bobby had become a member of the La Cosa Nostra?

A. Yes.

Q. Do you recall how that came about?

A. When Raymond, Jr., after of the old man died, Raymond, Jr., became the boss. And there was a -- I guess there was some neglect there on his part, and things around New England got a little messy. Territorial-wise people would --

Q. You seem to be the master of understatement. When you say that it became a little messy, why don't you explain for the jury what was going on, for example, in June of '89?

A. There was a guy Billy Grasso, who I believe was the underboss for Raymond, Jr., he got killed up in Connecticut. And Mr. Frank Salemme got shot, and a few other guys I believe got killed or got shot. And there was a -- there was a power struggle there between some members of New York and members of New England. I don't know the particulars on it, but --

Q. That's fine. Let me just ask you. As it relates to this violence that you've described, did you observe your brother become involved in some sort of mob activities?

A. He was liaison and mediator between the New England and other members of New England who -- it was kind of a messy thing.

Q. Were there factions within?

A. Yeah. There were factions. The Boston factions, Providence factions, Springfield factions.

Q. At the time, sir, where was your brother Bobby, where was he located? Where was he based at the time he was doing this

liaison?
A. Providence.
Q. Providence?
A. Yeah.
Q. Now, as a result of acting as this liaison, did something happen favorable to your brother as far as the organized crime world?
A. He thought it was favorable. He became a made guy.
Q. Okay. And do you remember when it was that he became a made guy?
A. When?
Q. Yes, sir. If you recall.
A. I'm not sure of the month. I know it wasn't too cold out.
Q. Okay. Let me ask you a question as it relates to becoming a made man.
A. That was the Medford thing.
Q. Well, the jury doesn't -- So explain what you mean "that was the Medford thing"?
A. Well, they settled it, my brother kind of settled it between the two factions. Because of the fact that he settled it, he took a risk, you know, in going back and forth. You never know. He put himself in danger there, yeah. They rewarded him with making it, making him a member.
And apparently -- there was a lot of people in that

ceremony, and apparently the feds got word of it, and they bugged the joint. There was a lot of films, and the place was -- the ceremony was wired.

Q. Okay. And so the government became aware of this making ceremony, if you will?

A. Yeah.

Q. Okay. Do you recall that being October of '89?

A. I think it was somewhere in that vicinity. I can't be exact.

Q. That's fine. So once your brother became a made member, did his sort of base of operations change at all?

A. Well, he was commuting back and forth to Boston more. I know that.

Q. As a result of his commute, who was he associating with in the Boston area?

A. Mr. Salemme, Mr. Salemme.

Q. Now, you weren't present for the induction ceremony, were you?

A. No.

Q. At that time that your brother was made, were you yourself a made member of the La Cosa Nostra?

A. I was not.

Q. Did you eventually become a made member?

A. I did.

Q. Do you recall who it was that sponsored you and then was

present for the ceremony in which you became a made member?
A. My brother.
Q. And was any other LCN members present for your induction ceremony?
A. There was.
Q. Can you recall who they were?
A. Mr. Salemme, Frank Salemme, his son, his brother, my brother, me, and Mr. Manocchio, Louis Manocchio.
Q. Who is Louis Manocchio?
A. Louis Manocchio was the underboss to Frank Salemme.
Q. Did Mr. Manocchio eventually become promoted within the La Cosa Nostra, eventually?
A. Well, he did after Mr. Salemme --
Q. Okay. And what position did he assume after?
A. The boss.
Q. The boss. Okay. Now, you mentioned that Mr. Salemme's brother was there. Do you recall his name?
A. Jack.
Q. Obviously you just testified that you've seen your brother Robert, Bobby, in the company of Mr. Salemme at your induction ceremony. Other than that had you seen the two men together on prior occasions?
A. A couple of times Mr. Salemme came down to Providence.
Q. Okay.
A. My nephew had a jewelry shop and he came to visit.

Q. Would he visit there at the jewelry shop?
A. Mm-hmm.
Q. Do you recall whether or not you ever socialized with him away from the jewelry shop?
A. I think I had a dinner with him one time.
Q. Do you remember any of the restaurants or meeting locations there in Providence that you would meet with Mr. Salemme?
A. Where I would meet?
Q. Yeah. Where you folks with meet with him in Providence.
A. Well, the only place I met him was at the jewelry store and we had dinner at Christina's at one time.
Q. So what was Christina's?
A. It was an Italian restaurant.
Q. And where was that located?
A. Federal Hill.
Q. Now, let's jump ahead from your brother's induction ceremony now, and let's go to May of 1993, why we're here today. Correct?
A. All right.
Q. Did there come a time in May of '93 that you were in the company of your brother Bobby?
A. There was a lot of times I was in his company in May.
Q. Do you recall a time when you were in his company when he received a page, a beep?

A. Yeah. He received a lot of them, but the one I remember the most is he got a page from Mr. Salemme. And he told me to take a ride with him, if I could give him a ride. And we went to the Marriott Hotel. And he called him over or vice versa, I don't recall that too well, and he spoke with him for a few minutes.

Q. Now, this use of the pagers, do you recall how that worked? In other words, how would they communicate with one another?

A. They had their own code and numbers and stuff, you know.

Q. Okay.

A. There was no cell phones then.

Q. As it relates to the Marriott, which Marriott?

A. Orms Street.

Q. Orms Street in what city?

A. Providence.

Q. Were you present with your brother at the time that he made this telephone call to Mr. Salemme?

A. I was.

Q. After the call had taken place, did you have a conversation with your brother?

A. Relatively small conversation, yeah.

Q. Okay. And tell us what was said by your brother in that relatively small conversation.

A. He got off the phone and said --

MR. WEINSTEIN: Objection.
THE COURT: Hold on a second. Are you making an objection or no?
MR. WEINSTEIN: Yes.
THE COURT: Basis?
MR. WEINSTEIN: The basis is hearsay. And 802 does not -- there's a ruling by the Court, but I have to make the objection now.
THE COURT: Okay. Find a different way to ask the question. Okay?
MR. FERLAND: Of course, Your Honor. It is 802(d).
THE COURT: My mistake. Go ahead. Overruled.
MR. WEINSTEIN: May we have a continuing objection on that basis?
THE COURT: You may, yes.
MR. SHEA: May we join also?
THE COURT: Yes, you may. Sorry. I misspoke.
BY MR. FERLAND:
Q. After your brother had hung up the phone, what did your brother tell you?
A. He said Mr. Salemme had a package for us, and he was bringing it down the next afternoon or morning, 11:30, 12:00. And I questioned him about it, and he says it's got to go down.
Q. And what did you conclude "it's got to go down" meant?

A. I said what do you mean. I questioned him, and he says, well, we've got to bury it.

Q. What did you conclude when he told you you've got to bury it?

A. Most likely it was a body.

Q. What did you say to your brother about this, there's a body coming?

A. I says why is he coming down at 11:30 tomorrow morning? Call him back and tell him to bring it down now.

Q. What did your brother say to that?

A. He said, I'm not calling him back, he knows what he's doing. And I said, well, you guys got a ton of heat on you. I'm not going riding around 11:30 tomorrow morning dealing with a body. I says call him back. I asked him two or three times. He says, you're crazy, I can't call him back. He's going to start getting mad or screaming or this or that. I forget exactly the words he used.

Q. Do you recall where it was that the meeting with Mr. Salemme to take possession of the package was to take place?

A. Take possession of it?

Q. Yes, sir.

A. We were supposed to -- well, I met him the next morning at a restaurant.

Q. Who did you meet the next morning?

A. My brother.
Q. Okay.
A. We didn't say too much at night, but I thought a lot about it.
Q. Okay.
A. And I met him the next morning at Shanna's Restaurant in North Providence. I didn't say too much. We had breakfast. And he said there's a car down at Lorenzo's Jewelry Shop.
Q. What was Lorenzo's Jewelry Shop?
A. It was on Rose Street, dead end street down off Charles Street, North Providence.
Q. I've got to interrupt you. I'm sorry. When you say it's a jewelry shop, is this a retail outlet where foot traffic would come in and buy jewelry?
A. No. It's a combination assembly, and he did some manufacturing, very small amount.
Q. Okay. So it's an industrial kind of a building?
A. Yeah but not too big.
Q. Okay. And he said there's a car there. What else did he tell you?
A. He said there's a car there. That's where we're going to make the switch.
Q. Okay.
A. He said we got to meet Salemme at the Rite Aid down on Charles and Mineral Spring.

Q. Okay. That's in, what, North Providence?
A. North Providence, yeah. And I said there's no sense in both of us going. One of us got to stay on the street in case something happens. This is after a little bit of back and forth talk, you know. And he said, no, I got to go, I got to be there. He insisted upon it.

So I said, listen, I'll go down there, switch it over, I'll come back and we'll figure something out. And so he about, and I said I'll make some excuse.
Q. What do you mean you'll make some excuse?
A. To Salemme.
Q. Okay.
A. And so it was probably around 11:30, somewhere in that area, could have been more, could have been less. And Salemme beeped him. And my brother had told me when Frank's coming into Rhode Island, he's going to beep me. So I says I'm going to go down. I says I'll switch the body with him.

So I left, I left him and I went down to -- past the Rite Aid. I didn't think Frank was there yet. I went down to Rose Street, Lorenzo's place. And I went over and I parked my car. I went over and I looked under the tire where my brother told me the keys were. I opened, I checked the trunk out. I wanted to check the car out first.

It wasn't a new car. It had some age on it because I didn't know what was going to happen at that point. I

checked the car out, and I started it. And I decided, well, I'll be better off driving up in this. People won't know me. A lot of people knew me in North Providence. And so I went up to the Rite Aid, drove up there in that car.

I backed in against the wall. I waited a few minutes, and apparently Salemme was there already because I seen him walking on the sidewalk, and he spotted me. He came in, and he got in a Jeep which I didn't know was his or something that looked like a Jeep. And I pulled out. He pulled behind me, and he followed me down Rose Street.

Q. I'm sorry to interrupt you. How far was this Rose Street location --

A. Couple of minutes.

Q. Okay.

A. And we pulled in there, went to the end. Like I said, it was a dead end. Went to the end. I pulled in. I backed in exactly the same spot as that car was originally parked, and Mr. Salemme backed in close to me. And we got out, and he was upset that my brother wasn't there.

Q. What did he say?

A. He says, where's Bobby, where's Bobby, you know. I said -- I'll tell you the truth at that point I was -- my mind was alert on other things because I felt, you know, we've got a body there. I'm looking around and whatnot. And I think I said he had to go somewhere with the kids or

something. My brother had two challenged -- he's got two challenged kids.

And he said, well, I told him he has to be here and whatnot anyways. So I says let's get this thing done here. So just about then a white van pulls in. I thought it was the feds. I thought they followed him or something. I said we're dead here. And he asked me, you know these guys? I said, no, you know them. He says no.

Anyways, they come down a dead end apparently, and they made a wrong turn. They backed up and they left. And so at that point he lifted the hatch up. I opened the trunk, and he said -- we picked -- there was a body wrapped in a blue tarp. We both picked it up and switched it into the switch car.

Q. Was it heavy?

A. It was uncomfortably heavy, but we both managed to pick it up and put it in the car.

Q. Was it consistent with what you would expect for a human body in terms of the weight?

A. I guess I thought it was average. Yeah, I guess it was average weight. Heavier than me. You know.

Q. Okay.

A. Anyways, he told me, he said, this has got to go down now. You can't go throwing it anywhere. It's got to go down. I said, all right, I'll take care of it, I'll take

care of it. And he says, make sure that tarp comes off. There's a lot of prints on there, and yours are on there now.

And so --

Q. Did he give you anything?

A. He gave me a bag of white -- a shopping bag, a regular shopping bag. There was probably eight or ten containers of pepper in there.

Q. Pepper?

A. Pepper.

Q. Okay.

A. He told me sprinkle it over the hole after I'm done burying it so the animals wouldn't get it.

Q. Okay. What happened next?

A. He told me, I think, again make sure that blue tarp comes off. And I guess at that time I kept telling him, you know, why don't you leave, why don't you get out of town, you know, you don't want to be seen in town. And so he did. He left. I give him a few minutes and then I left.

Q. Did you leave in the car in which you put the body?

A. No. No. I put the keys back on the tire, and I left in my car.

Q. Now, as it relates to the instructions that you received, "the body's got to go down", do you recall if Mr. Salemme provided you any additional instructions --

A. Would you repeat that about the instructions?

Q. Yes, sir. As it relates to Mr. Salemme providing you with the instructions "the body's got to go down", do you remember if he gave you any other instructions? Anything else he wanted you to do relative to the body?

A. He says make sure Bobby calls me.

Q. Okay.

A. You know.

Q. All right. And then he went his own way. And where did you go at that point?

A. I went up to meet my brother. I'm not sure if it was -- I don't recall if it was at the track or if it was at Shanna's, the racetrack is right near Shanna's. Anyways, I went up there and discussed, you know, what we were going to do with the body.

And he said, you know, Billy Ricci is burying some hazardous down at his mill. He says, he's digging down there.

Q. What did you say to --

A. And he said to me let's take a ride.

Q. Did you take a ride?

A. Yeah. We both took a ride down there.

Q. And when you say down there, where did you go?

A. Mr. Ricci's mill.

Q. Where was that located?

A. On the corner of Woodward Road and Branch Avenue.

Q. Did you meet with anybody there?
A. Met with Billy Ricci.
Q. Did you or your brother or the two of you engage in a conversation with Mr. Ricci?
A. My brother engaged mostly in the conversation. He told him that we had to get rid of a body, in more words or less. I can't quote what he said. Mr. Ricci, I think it was Mr. Ricci, who said after a while, I can start up this furnace, he said, and we can put him in there.
Q. What furnace is he making reference to?
A. We were standing in the room where the boiler was, big boiler. And then it was discussed, I'm not sure if Mr. Ricci or my brother said it, but it's warm out. He's got a stack down there probably 60 feet high or 80, 50, I'm not sure. It's really high. One of them said it's going to smell. So that was rejected.

And Mr. Ricci said, well, he said, all right, just come tonight and put him in the hole out there. He says, I'm burying hazardous waste. And that was pretty much of that.
Q. So then you had a plan?
A. Well, we had a plan there, yeah. We went back -- I think we went back to the track or somewhere.
Q. Again I need to interrupt you. When you say we went back to the track, just tell us what you mean by that. Where is the track?

A. We were -- my brother was a handicapper also, horses, dogs, and whatnot. And the track is -- he usually went to the track mostly, at least three, four times a week.

Q. What was the track's name?

A. Well, it was Lincoln Downs. Then it became Lincoln Greyhound Park.

Q. And what is it now?

A. It's a casino, Twin Rivers Casino. Excuse me.

Q. So you spent a lot of time there at the track?

A. We did.

Q. Okay. And once you had met wherever it was that you met, did you have a conversation with him, your brother?

A. Yes.

Q. And did you develop a further plan?

A. I told him, listen, you got a lot of heat on you. My personal thoughts were -- I had a lot of compassion for his two kids. He was married, had a house, wife, two kids. They're two challenged kids. I wasn't married and had no kids, and I didn't have the criminal record he did. So I told him, I said, one of us has got to be on the streets if anything happens.

I said I'm, going to get ahold of Richard who was my nephew. I said, we'll just go down there, we'll drop the body in. We'll back in, drop the body in. And that will be it, him and I can do it. And so --

Q. What's Richard's last name?
A. Cinquegrana. So that was the plan. So I went looking for my nephew. And I finally found him after a while, and I told him the situation. And he was kind of a street kid, street guy. He said, yeah, I'll do it for you because I had helped him out quite a bit in the past.

And so we went to eat, have dinner, lunch, late lunch. Then we went back to my house, and we hung around there. I think we even dozed off. And around about 7, 7:30, somewhere in that area, I get a phone call. It was Mr. Garabedian.
Q. Who is Mr. Garabedian?
A. Charles Garabedian, we called him Harpo.
Q. Was he someone that you knew?
A. We knew him very well.
Q. And how long had you known Mr. Garabedian at the time that you had --
A. 50 years.
Q. How many?
A. 50 years or better.
Q. Was he close with your brother Bobby?
A. He was.
Q. So you received a call from him?
A. And all he said was, I'll be down to pick you guys up maybe a half an hour or more after dark. And so that was

that.

Q. And you didn't arrange with Mr. --

A. No. No.

Q. Did you have to tell him where that car was at Lorenzo's place?

A. Never spoke another word to him on the phone.

Q. All right. What happened next?

A. 9:30, quarter of 10 maybe, I can't be exact, he came down to pick us up. He picked us up in the car with the body in it. Myself and my nephew got in, and there was a smell in the car. Harpo mentioned something about, yeah, it's a warm day, and it's starting to smell.

Anyways, we went down the back streets, took a few turns here and there, and we got to Woodward Road where Ricci's mill was or still is. We drove up Woodward Road and took the first driveway to the left. Harpo's driving, and he says, we're going to go in this door, and we're going to go up through the stairs.

And so that's what we proceeded to do. We opened the trunk. We took the body out, and we took it up a flight of stairs. And we went through the first door. And we went down a little ways, took a hook to the right and went up another set of stairs. And we got to a little hall leading to two doors.

There was a big couch on the left there, an old

couch. And so we set the body down, and I said, okay, wait a few minutes. Then I opened the door. And I looked outside, and it wasn't really illuminated that much, but it was light enough where if you walked across that lot -- and I remembered that that Woodward Road, for a lot of years the cops used to go up that Woodward Road and turn around.

There was a Town Line there, and they would frequent that place, I ain't saying every hour, but it was in my head. And then there was lights lit in the house.

Q. What house is that?

A. The house. If you're standing in the doors, them two doors, you look straight ahead at the first house, and the lights were lit, and it helped the illumination of the lot.

Q. Did that cause you concern?

A. Yes.

Q. So what did you do?

A. And I thought I seen someone moving in one of the windows. I went back in and I says, we've got to wait this out. I says, we can't go out there now. If somebody looks out that window, us carrying this package or whatever, I said, they're certainly not going to think it's anything legitimate going on. It looks bad.

And I said, if a cop comes up that street and anybody looks in that gate, we're dead. I said, we're going to have to wait until things quiet down, maybe the lights

will go out. We waited the better part of an hour. I looked again. I might have looked once in between that. I might have looked a couple of times, and the situation looked the same.

And so we sat down on the couch, and probably an hour and a half went by. I looked again. No change. So I said, look, we've got to make a move here. I said, I'm going to look around and see if I can get something so we can make a stretcher or something so we can carry it and run across that lot fast.

Q. Can I stop you there for a second? How far away was this house that was right in front of those double doors from where you folks were? What was the distance approximately, Mr. `?

A. Maybe 30, 40 yards, possibly 50. It was right in line to cast a light over the lot.

Q. Okay.

A. And there was light coming from somewhere else. I don't know what it was. It might have been light on the building or somewhere else. I don't know if the moon was out that night or what. It was just chancy. So I went downstairs and I found an old rusted hand truck. I took it upstairs. We laid it down. I said, put it on top, put the body on top and pick it up.

I think we picked it up and put it down. I said,

okay, it should be all right. I said, we got to run right across that lot fast. And I opened the doors, and we picked it up and we went out off that loading dock. And after a couple of steps when we were outside, Harpo fell down. The body fell off the hand truck.

So now I'm pretty sure I remember just pulling it away and saying, grab the top of that, let's go, come on, quick, we got to get this body over there, got to go.

Q. So what happened?

A. And we dragged it across the lot.

Q. And was there a hole there?

A. Oh, yeah. And we -- we could see the dunes on both sides where the sand was. And we slid it down into the hole. And me and my nephew mostly got down, and we got our feet covered in as much sand as we could until we seen that the blue tarp there was pretty well covered, maybe not all covered. But I wasn't concerned about that because Ricci was going to bury it early in the morning.

Q. Did Ricci have some sort of equipment he used to do that?

A. He had a backhoe, yeah.

Q. Okay. And that was something that had been agreed upon previously?

A. When we first seen Ricci, he says I'll come real early in the morning, he said, and I'll bury it.

Q. So once you had covered the tarp with sand, what did you

do next?

A. We started walking, and Harpo was ahead of us. And he said, why don't you guys walk back. He says, that car is a rented car, he says, I got to clean it. So we said go ahead, go ahead, go do what you got to do. We went down and got out on the sidewalk real quick through that gate, walked down Branch Avenue, went to Charles Street and went up Langdon Street, went out to Charles Street.

And I guess we were halfway home and my brother came by. He had been riding around. He didn't know what happened. He thought that -- he was worried. And he picked us up. And we went up to Dunkin' Donuts up Mineral Spring Avenue down towards Pawtucket, and he wasn't too happy.

Q. Who wasn't too happy?

A. My brother wasn't.

Q. Why not?

A. Because we left the blue tarp on, and he was not too happy at all. He said, that guy wanted that off there. He said, you're going to get me in trouble here, whatnot.

Q. What guy wanted that off?

A. He meant Salemme. I don't know if he mentioned his name or not, but I'm sure it was Salemme. We argued about it. I said, listen, that's ridiculous because once Ricci covers it up, them prints are not going to be on there. And I said after a while the body is going to decay, and it's going to

deteriorate any prints inside.

But he wouldn't listen to that. Anyways we went home. I didn't see him for I believe a day or two, I'm not sure how long. And when I did he said, we got to get that blue tarp out of there. I told Frank -- he said, I took Frank, I'm pretty sure he said at that point I took Frank down to see the site. He said, and he asked me specifically what did you do with that tarp. And I'm pretty sure my brother told him that I threw it in a dumpster. Pretty sure.

Q. Okay.

A. I can't carve that in stone, but I'm pretty sure.

Q. Did your brother persist as it related to the tarp?

A. Yeah. Well, I seen him the next day, and he's still hemming and hawing about it. And it went by two or three days, maybe four, maybe five, I don't remember that. I don't recall that. And he said, listen, that blue tarp has got to come out of there. He says, if something happens, he said, I'm going to be in trouble. He says there's a lot of prints on there.

And so that day or maybe the next day, I can't be sure, he said, I'm going down. He says, that tarp, I think I seen him at the track, he says, I'm going to get Ricci. If I got to go myself, he said, I'm going to get Ricci. So I didn't want to hear no more of that. I trusted myself to do it anyways, and I started the thing. So I said let me go.

So I didn't tell him nothing. I went down to see Ricci. He was at his body shop. And Ricci, I told Ricci about it, and he suggested again, you want me to start the furnace up, we'll get a dump truck and maybe we can take it right out of there. And I said, we can't do it at night, you can't go in there and dig at night in the dark, people are going to -- you know.

I said, why don't we go up there about 5:00 when there's a lot of traffic around. I said, we'll put on some hard hats, we'll go over there and dig it up quick, I says, and play it by ear. If the opportunity's there, I said, we'll -- if you want to put it in a dump truck or something, get it out of there. But I wasn't too confident I was going to do that. But I still said to him, listen, I need help if we're going to do that. I got to get my nephew.

Q. This is the same nephew that had helped you dispose of the body originally?

A. Richard Cinquegrana, yeah. He says, all right, meet me up there about 4:30, quarter of 5, just before it's kind of getting dusk, whatever, or the people coming out of work. The main thing I thought it would be busy. Branch Avenue was always busy, clogged, and two guys doing some construction work, I figured, well, we wouldn't be noticed. Can't go there at night.

So what I did was I got my nephew. On the way down

I'm on 146, and I just didn't like the idea. So when I got down to Dunkin' Donuts, which is across from the mill, I pulled in Dunkin' Donuts, and I said, told my nephew stay here, and if I need you I'll come and get you. Because Ricci hadn't seen my nephew at all, didn't know he was involved at all, never seen him.

And he said, all right. I said, get a coffee, wait in the car, if I need you, I'll come and get you. I went across the street. I went to the mill. I believe I went near the office looking for Ricci and whatnot. So I went up one flight of stairs, I heard a backhoe. I said, uh-oh, he's out there. I figured we were going to discuss things. But I went out them two doors, and he was out there digging already.

So I went over near the site, and he seen me. And I think he took one or two more shovels, and he hooked up on the rope or the end of that body, the package you call it, you know. When he pulled it up, it ripped open. It ripped open. Down the middle it was all shattered. Not shattered, but you could see where it ripped. The body fell out.

So I said, well, moving that body ain't going to happen. The body fell out and fell back down where he was digging. And so the blue tarp was hanging on the end of the shovel. So I jumped in the hole. I went down there and grabbed the blue tarp, wrapped it up. And I climbed out of

the hole, and I motioned to him fill it in.
Q. What did you see fall out of the blue tarp?
A. Body.
Q. Do you remember anything about how the body was dressed?
A. I remember a blue jogging suit.
Q. Okay. What happened next?
A. I left. I left. I went up through the two doors and back down to my car. And my nephew and I went to somewhere in Pawtucket and threw the blue tarp in a dumpster. I went back, told my brother, and never spoken of again.
Q. Okay. Now, when you said that you go into the mill to dispose of the body, so I'm going back to the original disposition of the body, the original burial. What side of the building, that mill building, did you actually gain entry through? Was it the same side as the hole?
A. No. It was on Woodward Road but not through the gate. As you come up Woodward Road, there's a driveway to the left. I don't know if it's still there or not. There's a driveway to the left. And there was a drive-in about two or three car lengths, and there was a set of stairs there.
Q. So if you're looking at the building, it would be the side of the building; is that right?
A. The side of the building but still on Woodward Road. It makes a turn, it makes a big turn there.
Q. I understand. And so you gain entry through there?

A. Right.
Q. And you exit from you say the loading dock area?
A. Right.
Q. Now, if you can take a look at an exhibit, Government's Exhibit 13. Look at your screen there, Mr. DeLuca. Do you see a photograph, a picture?
A. I do.
Q. Do you recognize what's in the picture?
A. I do.
Q. What do you recognize that to be?
A. The two doors.
Q. I want you to put an X on what you've described as the two doors, if you can. Just go ahead -- yeah. Okay.
A. [Witness does as requested.]
Q. So that's the loading dock door that you made reference to, is that correct?
A. Yes.
Q. Did you report to your brother Bob that you had retrieved the tarp; that you had gotten the tarp?
A. Yeah. I think I said that earlier. I went back and told him that we got the tarp.
Q. You said your brother and you did not speak of it again. Did there come a time that the topic did come up?
A. He mentioned, he mentioned somewhere someone, some law enforcement mentioned something about DiSarro at one time

several years down the road. That time element I don't remember.

Q. Okay. Do you remember who it was that questioned him about it? Any recollection?

A. I remember the name Wyshak.

Q. Okay. And do you remember what the context was that Wyshak was asking your brother questions, if you recall?

A. I guess generally do you know anything about it.

Q. Okay. That was the topic. How about where it actually took place? Do you recall?

A. Where what took place?

Q. The questioning.

A. Oh. I think my brother was in jail then.

Q. Okay. So your brother was in jail.

A. In prison.

Q. And did he discuss with you how it was that he had come into contact with Wyshak?

A. There may have been a grand jury involved. I'm not sure.

Q. Okay. So you're not sure if it was grand jury. But otherwise he had been asked questions about DiSarro, is that correct?

A. He did.

Q. All right. And then in 2016 did the topic come up again?

A. Yes.

Q. How? How did the topic come up again?

A. Well, I think that was the time the body was found.
Q. And was there some -- did you become aware of the fact that the body was found?
A. Yes.
Q. Did you know that -- or did you suspect that it was the body that you had disposed of?
A. Sure it was.
Q. Did you have a conversation with your brother about that?
A. All he said was -- he was in Florida. And all he said was -- I guess he didn't want to talk on the phone. And all he said was, did you hear about they found the body down at Billy Ricci's, you know. And I actually at that point didn't know, and then I seen it on the news.
Q. Okay. At some point after that, having seen it on the news, were you approached by investigators?
A. I was.
Q. Did they question you?
A. They did.
Q. Did you give them any answers?
A. I did not at the first time.
Q. Okay. When you say not at first, what transpired? What took place?
A. I told them -- they asked me a bunch of questions, and I said I need to have a lawyer. Okay?
Q. Okay.

A. And I procured a lawyer, and then we -- I talked to the lawyer. And he told me the options, whatnot. And he -- I said, well, look, let's throw the cards up in the air, see where they fall. You know, I've been worrying for 25 years. The cat's out of the bag, you know. I said get in touch with those people, meaning law enforcement, and see what we got to do.

Q. Okay. Now, as it relates to your getting in touch with law enforcement, you were provided through your lawyer --

A. Right.

Q. -- a letter that said that the things that you told --

MR. WEINSTEIN: Object to leading about the content.

MR. FERLAND: That's fine, Your Honor. I'll rephrase the question.

THE COURT: Yes.

BY MR. FERLAND:

Q. As it relates to your conversations with the government, were you aware of whether or not you were afforded any protections in those conversations?

A. My lawyer told me whatever you tell law enforcement, Attorney General, anybody connected with law enforcement, whatever you tell them they cannot use against you in a court of law.

Q. And as a result of those assurances, you met with the

government, correct?
A. Yes.
Q. And told them the things that you had told this jury today. Is that true?
A. I did.
MR. WEINSTEIN: Objection.
THE COURT: Leading?
MR. WEINSTEIN: Yes.
THE COURT: Stop leading him, Mr. Ferland.
MR. FERLAND: Sorry, Your Honor.
BY MR. FERLAND:
Q. Did you tell law enforcement a story, a version of events?
A. I told law enforcement -- I don't know if I can say this. Can I say? What I told them here today.
Q. Okay. I want to step back a little bit. As it relates to your conversations with your brother Bobby, there were -- let me ask you this. I'm sorry.
Were there times where the two of you discussed the events surrounding the disposal of the body and refreshed each other's recollection?
A. No.
Q. Do you remember having conversations with your brother concerning, oh, do you remember this or do you remember that?
A. No. I didn't do that because I didn't want to do that.

Q. Okay. You had mentioned that the car was parked at Tony Lorenzo's, correct?
A. Right.
Q. All right. And you described it as an industrial building. I want you to take a look at 186. I.d. only at this point.
Do you recognize 186?
A. I do.
Q. What do you recognize that to be?
A. That's Mr. Lorenzo's -- that's the end of Rose Street, Mr. Lorenzo's -- the parking lot. I don't know if he owned the building or not. I know he was -- that building is where he done his work in there.
Q. Mr. Lorenzo was a friend of yours?
A. Yes.
Q. A friend of your brother Bob's?
A. Yes.
Q. Somebody that you trusted?
A. I wasn't really that close with Mr. Lorenzo. I used to go down there and buy jewelry and resell it occasionally. That was more or less my relationship with him. And I'd see him at the track.
Q. Okay.
A. My brother was closer, you know.
Q. So in looking at this photograph, sir, other than that

large dumpster, is this area similar to the way the area appeared at the time that you parked the car there and moved the body?

A. It is. Eliminating the dumpster.

Q. Other than the dumpster.

MR. FERLAND: I'd ask 186 be moved in as full.

MR. WEINSTEIN: No objection.

MR. CROWE: No objection, Your Honor.

THE COURT: Admitted.

(Government Exhibit No. 186 admitted.)

MR. FERLAND: And can we publish it?

THE COURT: Yes.

BY MR. FERLAND:

Q. Let's take a look at 187 if we could. Are you able to see 187, Mr. DeLuca?

A. I am.

Q. What is that a photograph of?

A. That's Mr. Lorenzo's jewelry place.

Q. And again other than the dumpster, is that how it was laid out back then in 1993?

A. Yes.

MR. FERLAND: I move that in as full, please, Your Honor.

MR. WEINSTEIN: No objection.

MR. CROWE: No objection.

THE COURT: Admitted.

(Government Exhibit No. 187 admitted.)

BY MR. FERLAND:

Q. 188.

A. Same thing.

Q. Different perspective?

A. Yeah. Different angle.

Q. Fair and accurate other than the dumpster?

A. Yes.

MR. FERLAND: Move that in, please, as full.

MR. WEINSTEIN: No objection.

MR. CROWE: No objection.

THE COURT: Admitted.

(Government Exhibit No. 188 admitted.)

BY MR. FERLAND:

Q. So in this photograph, Mr. DeLuca, if you can --

THE COURT: Do you want it published?

MR. FERLAND: I'm sorry. Yes, please, Your Honor.

BY MR. FERLAND:

Q. Can you show us where the vehicles were parked when the body was transported?

A. Can we go back to the other?

Q. Sure. You want to go back to 186? This one or this one.

A. That's good. Where R-A-M on Rambone, that's where I call it, the switch car was. And Mr. Salemme backed into around

where the O-N-E is.
Q. Okay. Were the cars side by side?
A. Side by side, backed in.
Q. Okay. Now, as it relates to your testimony here today, other than that letter that we made reference to, were there other promises made to you?
A. Promises made to me?
Q. Yes.
A. No.
Q. When you were dealing with the government, did you ask the government for something else, some other consideration?
A. No, I didn't.
Q. Don't you recall asking the government to have your cooperation count toward your brother, to help your brother?
A. I thought I asked my lawyer that. I'm not sure I asked the government. Maybe I did.
Q. Well, if you asked your lawyer that, it was in hopes that the lawyer would ask the government that, correct?
A. Oh, yeah. Naturally.
Q. Okay.
A. He said there was an option, some kind of options that I didn't understand.
Q. The lawyer?
A. Yeah.
Q. I don't want you to talk about what you talked about with

your lawyer.
A. Okay. All right.
MR. FERLAND: May I have a moment, please, Your Honor?
THE COURT: Yes.
MR. FERLAND: No further questions.
CROSS EXAMINATION
BY MR. WEINSTEIN:
Q. Good morning, Mr. DeLuca.
A. Morning, sir.
Q. You're a Providence guy, right?
A. Excuse me?
Q. You're a Providence guy, right?
A. I'm a Providence guy? I was born in Providence, yes.
Q. Grew up in Providence?
A. Yeah. Yes.
Q. Still live in Providence?
A. Excuse me?
MR. FERLAND: Objection.
BY MR. WEINSTEIN:
Q. Do you still live in Providence?
A. No, I don't.
THE COURT: Hold on a second. What's the basis of the objection?
MR. FERLAND: If I could be heard at sidebar.

THE COURT: If he gets no more specific than that, does that satisfy you?

MR. FERLAND: I suppose, Your Honor.

THE COURT: Do you understand, Mr. Weinstein? No more specific than that.

BY MR. WEINSTEIN:

Q. I'm doing well. In all your years in Providence you follow local news?

A. I'm not really a news guy.

Q. Do you watch Channel 12?

A. Not much. I like national news better than Channel 12.

Q. Do you like Channel 10 better than Channel 12?

A. Never thought about it.

Q. Both of those stations are Providence-based television stations, correct?

A. I don't know.

Q. Did you ever hear of something called the Providence Journal?

A. Oh, sure.

Q. That's a newspaper, correct?

A. Correct.

Q. It's a newspaper that is based in Providence, Rhode Island, correct?

A. Correct.

Q. It carries, in addition to national news, it carries

local news, does it not?
A. Sure. It must if it's Providence-based.
Q. Were you aware in March of 2016 that there was some activity at Billy Ricci's place on Branch Avenue?
A. I was aware of it.
Q. And you were aware of it, were you not, because there was reporting about it in the local media?
A. That wasn't the original --
Q. My question, Mr. DeLuca, were you aware of what was going on behind Billy Ricci's factory from local media?
A. After my brother told me about it.
Q. When did you first talk to your brother Bobby about what was going on behind Billy Ricci's place?
A. I'd say the day they were digging or the day before.
Q. Did you call him or did he call you?
A. I believe -- I used to talk with him quite frequently, and I don't know if he called me or I called him.
Q. So the day that they're digging the body, you were on the phone with your brother Bobby?
A. Not sure.
Q. The day that they were digging behind Billy Ricci's or the next day after they first started, you were on the phone with your brother Bobby?
A. One of them days, yes.
Q. So one of them days either he called you or you called

him?
A. I don't recall.
Q. Well, it was one or the other, correct? Either you called him --
A. It was one or the other --
Q. -- or he called you?
A. I called him or he called me quite frequently. He was living in Florida, and I came --
Q. I'm only asking you now, Mr. DeLuca, about the first day that law enforcement was at Billy Ricci's at the end of March of 2016 or the second day that law enforcement was at Billy Ricci's at the end of March of 2016.

My question in connection with that timeframe is did you call Bobby or did he call you.
A. Don't recall.
Q. When you spoke with him, you had no idea that there was anything going on at Ricci's based upon what you said. Am I correct?
A. Correct. When I first found out.
Q. So when you first talked about what was going on at Branch Avenue, it was because your brother Bobby brought up the topic, correct?
A. Correct.
Q. Your brother Bobby is down in Florida at this time in 2016? Yes?

A. Correct. Yes.
Q. He was living in Coral Springs, Florida, was he not? Yes?
A. Yes.
Q. And he was living in Coral Springs, Florida, because he left Providence, Rhode Island, after he first became a rat in 2011?
MR. FERLAND: I object.
THE COURT: Sustained.
BY MR. WEINSTEIN:
Q. He left Providence, Rhode Island, as a result of his cooperation with federal law enforcement in Providence, Rhode Island, in 2011, correct?
A. That's correct.
Q. His activity with law enforcement in Rhode Island had to do with several people, correct?
A. How do you mean that? Could you elaborate?
Q. Well, he cooperated, gave information which resulted in prosecution of many men in Rhode Island, right? You're shaking. Is that a yes?
A. Yes. Excuse me. Yes.
Q. That included Louie Manocchio. Yes?
A. Yes.
Q. Louie Manocchio you told us became the boss of La Cosa Nostra?

A. Correct.
Q. And he cooperated against other members of La Cosa Nostra, did he not?
A. Correct.
Q. Do you know how many people your brother provided information against in 2011 before he fled the state to Florida?
A. I couldn't, I couldn't tell you exact.
Q. Your best memory is that it's more than six?
A. Let's see. Could have been around six.
Q. And you know, don't you, that your brother's decision to work with the feds came after he was indicted in the federal court in Providence, Rhode Island, in 2011, right?
A. As far as I know.
Q. He was indicted for racketeering, right?
A. I don't know the charges, sir.
Q. Do you know the term RICO?
A. I do.
Q. Racketeering Influence Corrupt Organizations statute, correct?
A. Yes.
Q. And that's what Bobby was indicted for back in 2011, correct?
A. I am not personally sure it was RICO.
Q. But you know that indictment was a step in the direction

of him becoming a cooperator with the federal government? Yes?

A. Yes.

Q. And he was facing, you know this, do you not, a long federal prison term when he was under indictment? Yes?

A. That I'm not sure of, but I would think he would be.

Q. You know at the end of the day in the 2011 case against your brother Bobby, he did one day for the day he was arrested and not another minute in federal prison, correct?

A. Well, the --

Q. Correct or not correct, Mr. DeLuca?

A. Don't know.

THE COURT: Mr. Weinstein, ask the question and give him a chance to answer it, please.

BY MR. WEINSTEIN:

Q. You don't know?

A. Don't recall. I never got into that business.

Q. Well, did you ever visit your brother Bobby in federal prison after he was indicted in 2011 for that offense? Yes or no.

A. No.

Q. And that's because he didn't get any time, right?

A. Apparently.

MR. WEINSTEIN: Is this an appropriate time to break, Judge? I can keep rolling.

THE COURT: If you're at a good stopping place, we can break. We'll be back at quarter of 12.

THE CLERK: All rise for the jury.

(The jury exits the courtroom.)

(Court recessed.)

THE CLERK: All rise for the jury.

(The jury enters the courtroom.)

THE CLERK: Court is in session. Please be seated.

THE COURT: Go ahead.

BY MR. WEINSTEIN:

Q. Thank you. Mr. DeLuca.

A. Mm-hmm.

Q. You learned, did you not, that William Ricci had been charged for crimes in relation to the building on Branch Ave.?

MR. FERLAND: Objection. Calls for hearsay.

THE COURT: Overruled.

BY MR. WEINSTEIN:

Q. You learned that, did you not?

A. Could you repeat that, please?

Q. Sure. You learned, did you not, that Mr. Ricci, Billy Ricci, had been charged with some crime in connection with marijuana growing at his warehouse or his mill?

A. Yes.

Q. That's yes, correct?

A. Yes.
Q. When did you learn that?
A. Sometime around the time he was -- they discovered.
Q. And that was some months before the digging took place behind his building, right?
A. I'm not too sure of the time span there, sir.
Q. It wasn't after?
A. No. It was before.
Q. Before. And you learned about that from friends?
A. Not sure.

MR. WYSHAK: This is inadmissible hearsay. Can we have a sidebar?

THE COURT: The first question is fine. I'll hear you at sidebar if you want.

(Bench conference held.)

MR. WYSHAK: He has no personal knowledge of the case against Mr. Ricci, of what happened to Mr. Ricci, of anything that Mr. Ricci did. So asking him questions about his knowledge, it's obviously based on hearsay. And there's no exception.

THE COURT: For what purpose will you be eliciting it?

MR. WEINSTEIN: State of mind at the time.

THE COURT: I'll give it to him not for the truth of the matter asserted. But if you're going somewhere --

MR. WEINSTEIN: No. It's state of mind.
MR. WYSHAK: What happens to Mr. Ricci --
MR. WEINSTEIN: I'm not answering your questions. I'll answer the Judge's but not yours.
MR. WYSHAK: Your Honor, I object. If it goes to his state of mind --
THE COURT: The charge was before they buried.
MR. FERLAND: No, not before. After.
THE COURT: Before it's uncovered.
MR. WYSHAK: That's what I said.
MR. FERLAND: That's accurate. Ricci is charged before the body is discovered. That is correct, Your Honor.
THE COURT: I'll give you some latitude on it, but I'm going to give them an instruction.
(End of bench conference.)
THE COURT: What he is eliciting from this witness is what we call hearsay. It's his testimony about what somebody else has said. In this case that does not come in for the truth of the matter asserted, but it can come in for his state of mind or why he did certain things. He hears something and it may cause him to take certain action. It comes in to explain his state of mind for what he might have done, but it does not come in to prove, for example, that Mr. Ricci was charged with a crime or how it resolved itself. Satisfactory?

MR. WEINSTEIN: Yes.

MR. WYSHAK: Yes, Your Honor.

BY MR. WEINSTEIN:

Q. Mr. DeLuca, you did learn that Mr. Ricci had been charged with crimes?

A. Yes. One time or another. I'm not sure when.

Q. Upon learning that Mr. Ricci had been charged with the crimes in the months before March of 2016, were you not concerned that he was going to cooperate with the federal government?

A. To tell you the truth, I wasn't really that concerned.

Q. Were you concerned that Mr. Ricci was going to talk about the body that you had put in his hole, in his ground, back in 1993?

A. I wasn't really concerned. It crossed my mind, but --

Q. And were you concerned that Mr. Ricci might by discussing the body that you put in the hole in his ground would include your brother Bobby in possible criminal charges?

A. My concern wasn't that strong, sir.

Q. My question is were you concerned that it might involve your brother Bobby in criminal charges. Yes or no.

A. There is no yes or no because I wasn't that concerned. It flashed --

Q. You weren't concerned about Bobby at that time? Is that a fair statement?

A. Say it again.
Q. Is it fair that you were not concerned that your brother Bobby --
A. Somewhat.
Q. You were somewhat concerned?
A. Somewhat concerned.
Q. You were somewhat concerned that Bobby might have a big problem, correct?
A. Well, the concern was that both of us might have a problem.
Q. And so you were concerned that you might have a problem? Yes?
A. There was some concern there, yeah.
Q. And you were concerned that Bobby might have a problem?
A. Some concern.
Q. And Bobby at the time had two young children, did he not?
A. He did.
Q. And those children were how old in 2016?
A. I think seven and nine or eight and ten.
Q. Those are not the two children that you were referencing --
A. No, they're not.
Q. -- back in conversations in 1993?
A. The challenged children, no.
Q. When you say "the challenged children", those were two of

Bobby's children that had some forms of disability?
A. A mild form of cerebral palsy.
Q. Cerebral palsy?
A. Yeah.
Q. So when you referenced those children, the challenged children, those are the two that were alive in 1993?
A. Correct.
Q. But in 2016 Bobby, your brother, had two young kids. Yes?
A. Right, yes.
Q. And they were living with him in Florida?
A. Yes.
Q. And they were living with him and his wife in Florida?
A. Yes.
Q. And his wife's name was Gina?
A. Yes.
Q. And she was much younger than Bobby?
A. Yes.
Q. So it was a concern when you learned that Billy Ricci might be assisting the federal prosecutors that Bobby might lose access with his children?
A. There was some concern, yes.
Q. You didn't want that to happen?
A. Of course not.
Q. When you first spoke with Bobby about the activity at the

end of March that was going on at Ricci's place, he brought up the fact that it was going on.

Is that your best memory?

A. He -- he -- he originated, yeah, he originated the subject.

Q. Because when he brought it up to you, you were not even aware on the 28th of March 2016 that the FBI was digging behind Ricci's place?

A. I am not sure of the date, sir.

Q. You weren't aware the following day of March 29, 2016, that the FBI was digging up the place?

A. I knew when they were digging up from the news media and from talk around, but I can't compare them with the dates.

Q. All right. So you did learn from news media that the FBI was on Branch Ave, right?

A. Yep. I guess that was one source.

Q. And did that news media include television?

A. Yeah. I think I seen it on TV once or twice.

Q. And the newspaper, the Journal?

A. I don't read that.

Q. You learned from television reporting that the FBI was digging up in the area, the same spot where you had placed the body back in 1993?

A. That's not where I learned originally, sir.

Q. You learned originally from Bobby?

A. Right.
Q. And you also learned about it from the media?
A. I didn't learn much. I didn't learn much.
Q. The question is did you learn about it from the media.
A. I learned a little more expansion on the subject, yeah.
Q. And you started to pay attention to the media after Bobby told you what was going on, correct?
A. I'd say periodically.
Q. Did Bobby tell you the source of his knowledge that the FBI was on Branch Ave.

MR. FERLAND: Objection.

A. He did not.

THE COURT: That question is allowed. Overruled.

BY MR. WEINSTEIN:
Q. Did Bobby express to you concern for his freedom when he told you and you learned for the first time that the FBI was on Branch Ave.?
A. He did not.
Q. Did Bobby express to you concern for his two young children?
A. He did not.
Q. Did Bobby express any concerns at all to you?
A. He did not.
Q. Did you express any concerns that you had with Bobby and his freedom when you first spoke about the FBI activity?

A. Concern to who? My brother?
Q. Yes. To Bobby.
A. No.
Q. And did you express to him any concerns that you had for yourself?
A. No.
Q. Because you weren't concerned or you just didn't express the concerns that you had?
A. I had some concern, but I didn't express my concern to my brother.
Q. And whether he had any concerns, he didn't express them to you?
A. Correct.
Q. Now, is that because you and Bobby didn't ever discuss with each other criminal activity that you were involved in after the criminal activity was concluded?
A. It was telephonic communication, sir.
Q. Because you didn't trust that someone might be listening to you talk on the phones?
A. Yeah.
Q. You were concerned that the feds might be listening in on your conversation?
A. Possibly.
Q. Was that your concern?
A. Certainly not going to talk about it on the phone.

Q. You didn't want to talk about it on the phone because you were concerned that somebody might be listening in on your conversation?

A. Possibly, yeah.

Q. Now, have you expressed the notion that you and your brother didn't discuss your crimes with each other unless you were in the middle of fixing a horse race?

A. Only when it was a necessity, sir.

Q. You testified in a grand jury in June 30 of 2016. Do you remember that, that you testified in the grand jury?

A. Which grand jury? In Worcester?

Q. Federal grand jury in Worcester, Massachusetts.

A. Worcester, yes.

Q. On June 30, 2016?

A. Uh-huh.

Q. And did you testify in that grand jury at page 32 that in response to the question, "You said earlier you found out who it was when he was called to the grand jury" in relation to when you learned the identity of the person that you buried. Do you remember that?

A. Could you make that a little more plainer, sir?

Q. Did you tell the grand jury that you didn't talk about your things with your brother Bobby because you didn't want to be in a position where you'd have to lie if you were on the stand or anything like that? You testified to that?

A. For the most part that's what we practiced.
Q. You told the grand jury that's just how we did things. Yes?
A. For the most part.
Q. "Unless we're in the middle of fixing a race, then we'd discuss things. Unless something was done, it was done. You know what I'm saying?"
That's what you said to the grand jury?
A. Okay.
Q. Now, you and Bobby were concerned that if you were questioned by the feds you'd have to get your stories straight, weren't you?
A. Come again on that one, sir.
Q. You and your brother Bobby were concerned that if you were questioned by the feds and chose to talk with them, you'd have to get your stories straight?
A. Me and my brother were concerned that we have to get our stories straight? We didn't do that.
Q. You didn't talk about anything that happened?
A. No.
Q. When you were talking with him in March of 2016 regarding things that happened as you now have told us in your version back in 1993?
A. We might have mentioned the general subject.
Q. The general subject of the fact that in 1993 you guys got

together and buried a body behind Ricci's factory. You might have had that little discussion about that?

A. No.

Q. Nothing at all?

A. No.

Q. Did you tell Bobby that it would be a good idea for him to come up from Florida and confess to the crimes that he had committed back in 1993?

A. I don't remember that. I don't recall that.

Q. This was about two years ago. As you think on that conversation with Bobby when he told you for the first time that the feds were digging up behind the warehouse, can you focus on that for a moment?

A. Go ahead.

Q. And in that first telephone call where Bob brought up the subject of the body at Ricci's, did you say to him, brother Bobby, come up north and confess the crimes that you had committed?

Did you do that?

A. I don't recall it.

Q. Did you and Bobby say to each other in substance, let's wait and see what happens, see if we have to make a move?

Did you have a conversation like that?

A. I don't recall any conversation like that, sir.

Q. Do you recall making any comment at all to Bobby on that

first phone call when you learned for the first time about the activity on Branch Ave.?
A. Very brief and I didn't say much about it.
Q. And he didn't say anything about it to you?
A. Yeah. He told me there's someone digging down there, what's going on down there.
Q. But what he was going to do about it, did he tell you what he was going to do about it?
A. No. I don't recall that at all.
Q. So this was towards the end of March. Is it fair in pointing it to that timeframe that the body was dug up, the end of March of 2016? Yes?
A. I really don't recall dates, sir. If you say so, I'll go along with it. Go ahead.
Q. Do you remember getting a phone call from the FBI at the end of March of 2016?
A. I do remember getting a call.
Q. Do you remember meeting with FBI agents on March 31 of 2016?
A. The date I can't seal it for you, but I remember around that time meeting with the FBI.
Q. Without sealing the date for us --
A. Excuse me.
Q. Without sealing the date for us, you do recall that you met with FBI agents at the end of March 2016?

A. I believe it was the same thing that you're talking about, but I don't believe -- I don't remember the date, but I did meet with FBI agents.
Q. At a Burger King?
A. It was FBI agents and there was also State Police there.
Q. You remember that?
A. Yes.
Q. Now, were you just a dining guest of the Burger King and the agents walked in on you?
A. Nope.
Q. That was by prearrangement, wasn't it?
A. I got a call.
Q. You got a call from an FBI agent, right?
A. Yes.
Q. And the agent said we'd like to meet with you. Yes? Yes?
A. Yes.
Q. They wanted to talk with you. Yes?
A. Yes.
Q. The agent's name was Christopher Braga. Yes?
A. Yes.
Q. Do you see Mr. Braga in the back of the courtroom?
A. I do. I do. Over in the courtroom. I do, yeah.
Q. What's he wearing?
A. Well, he's got a little gray hair on the top and he's got

a t-shirt underneath the black coverall there, whatever it is.

Q. The fellow right here, second to the last row?

A. That's him.

Q. Stand up. That's the guy that you met with at a Burger King. Yes?

A. Along with two or three others, I guess.

Q. Along with detective named Robert Richardson from the Rhode Island State Police. Do you know his name?

A. I don't really.

Q. But there was Mr. Braga and a couple of other cops. Yes?

A. Yeah. I believe there was four.

Q. And they wanted to talk with you about what was going on behind Ricci's place. Yes?

A. That's what they spoke of, yes. That's what they spoke of.

Q. You didn't answer any questions for them that day, did you?

A. Correct.

Q. Was this a Burger King meet in the morning or the afternoon?

A. Geez, you know, I really don't recall that, sir.

Q. Do you recall what time you got that first phone call from Mr. Braga?

A. I don't.

Q. Do you recall how soon after that call you got yourself to the Burger King?
A. Maybe a half hour, an hour maybe.
Q. It wasn't a long wait then if it was a half hour to an hour?
A. Not very long.
Q. Mr. Braga contacted you and in some substance said, Mr. DeLuca, we want to meet with you and talk to you about something, meet us at the Burger King. Yes?
A. Yes.
Q. And you did. Yes?
A. Yes.
Q. They were very formal, correct?
A. Yes.
Q. They were polite?
A. Absolutely.
Q. They wanted to talk with you and wanted you to talk back with them. Yes?
A. Yes.
Q. You weren't going to talk with them that day though, were you?
A. No.
Q. You wanted to lawyer up?
MR. FERLAND: Objection.
THE COURT: Sustained.

BY MR. WEINSTEIN:

Q. You wanted to get a lawyer. Yes?

A. Yes.

Q. You wanted to speak with a lawyer so you had some sense of what you should do upon advice of a lawyer. Yes?

A. Yes. Yes.

Q. The lawyer that you wanted to meet with was a fellow named Coloian. Yes? Artin Coloian, do you know that name?

A. Yeah, sure.

Q. That's the lawyer that you told the FBI that day you were going to hire. Do you remember that?

A. I don't believe I told them I was going to hire him.

Q. You wanted Mr. Coloian to represent you?

A. I might have suggested that.

Q. And you were told by the government agents that you couldn't use Mr. Coloian. Do you remember that?

A. I don't remember that part.

Q. That the government agents told you you couldn't use Artie Coloian because he had a conflict of interest in the investigation?

A. That might have been it. I'll go along with that.

Q. I'm not asking you to go along, sir. I'm asking you to recall that that was what was said.

A. I don't recall it, but that's very possible.

Q. Mr. Coloian was your first choice for somebody to consult

with, but the agents told you not to?
A. I don't think they told me not to. They told me I couldn't.
Q. They told you you couldn't and therefore you wouldn't and didn't consult with Mr. Coloian. Or did you?
A. No, I didn't.
Q. And you didn't because the government agents told you don't, correct?
A. I can't recall that, but it possibly could have happened.
Q. That same day -- by the way, how long were you with the agents at Burger King?
A. An hour, maybe an hour.
Q. Did you speak with them again that same day?
A. I really don't recall if I did or not.
Q. Do you now recall that after the meeting at the Burger King you received a contact by phone, a telephone call from Mr. Braga after the Burger King meet.
Do you remember that?
A. I remember receiving a phone call, but I don't remember if it was that day or another day.
Q. The next contact that you had with the FBI following the Burger King was by phone. Do you remember that?
A. I think I talked to Mr. Braga, yeah.
Q. And you told Mr. Braga that you hadn't yet retained Artin Coloian as your lawyer?

A. No, I did not tell them that. I don't believe I told them that because I knew I couldn't get Mr. Coloian.
Q. My question to you is did you tell Mr. Braga in the telephone call that followed the Burger King meeting that you had still not retained an attorney but wanted to utilize Artin Coloian as your attorney?
A. I really can't recall that, sir.
Q. Do you remember that you told Mr. Braga that you'd get back to him in three days?
A. Don't remember that.
Q. Did you tell Mr. Braga that you'd get back to him in three days because you were thinking of going to Chicago to get a lawyer?
A. That I don't remember at all. Chicago?
Q. Did you tell Mr. Braga in the telephone call that he placed to you after the Burger King meet that you'd be calling him back in three days because you were thinking of going to Chicago to get a lawyer?
A. If I did say that, sir, it must have been a joke.
Q. So you were joking with the agents in this rather serious investigation?
A. Well --
Q. Were you joking with the agents in this serious investigation?
A. Could we use the word facetious maybe.

Q. It was an excuse -- you were putting him off somehow? Were you putting Braga off?
A. No. I wasn't putting him off.
Q. Did you just tell him about Chicago because you thought it was cute?
A. I don't know. I don't know. I don't remember telling him.
Q. If Mr. Braga were to say that that's what you told him, would he be mistaken?
A. I don't know.
Q. Did you say that you were going to go to Chicago to get a lawyer because you didn't want a lawyer who didn't know anything about this stuff?
A. Don't remember that.
Q. Were you asked by Mr. Braga whether you still intended to hire Mr. Coloian as your lawyer? Do you remember being asked by Mr. Braga that question?
A. I don't.
Q. Do you remember being told by Mr. Braga that it would not be possible for you to hire Artin Coloian?
A. I think that --
Q. Do you remember being told by Mr. Braga that it would not be possible for you to hire Mr. Coloian?
A. I believe I was told that in the beginning.
Q. Were you told it in the telephone call after the Burger

King meeting?
A. Don't remember that. I remember it in the beginning I was told that there was a conflict.
Q. Do you remember asking Mr. Braga who should you get to be your lawyer?
A. The question again, sir?
Q. Do you remember asking Mr. Braga on the telephone conversation following the Burger King meeting who should you get to be your lawyer?
A. I don't recall that, sir.
Q. Do you remember being told by Mr. Braga that he, Braga, couldn't make any suggestions as to who should be your lawyer?
A. I don't remember that, sir.
Q. Do you remember being told by Mr. Braga you couldn't hire any lawyer who represented Eddie Lato, Rocco Argenti, or anyone who took part in the murder of Kevin Hanrahan?
A. Who was saying this now, sir?
Q. Mr. Braga. Do you remember him saying to you that you couldn't get a lawyer to represent you if the lawyer had anything to do with representing --
A. I really don't recall --
Q. Let me finish my question to you.
A. I really don't recall.
Q. Do you remember being told by Mr. Braga that you could

not get a lawyer for yourself who represented Edward Lato, Rocco Argenti, or anyone else who took part in the murder of Kevin Hanrahan?

A. I don't really recall it. Could have.

Q. Do you recall telling Mr. Braga after he made that comment "that's a lot of guys"?

A. I don't.

Q. Do you remember in that telephone call after the Burger King expressing to Mr. Braga that you had to think about your brother Bobby?

A. Who said I've got to think about my brother Bobby?

Q. Did you say to Mr. Braga in that telephone call after the Burger King meeting that you have to think about your brother Bobby?

A. Don't recall that, sir.

Q. I'm going to ask you to read -- I'm going to ask you to read some things to yourself and see if it helps you to remember the things I've just asked you about.

A. I'm not too sure I have my reading glasses today. Let me see if I can find them.

Q. If you don't have them, I'll go back and ask more questions. You have two glasses. One you're wearing and one is in your pocket. Neither of them are your reading glasses?

A. I've got three, sir.

Q. Okay.

A. My eyes have been changing frequently.
Q. Are those the reading glasses you're now holding?
A. These are stronger. Let me hold that.
Q. I'm going to show you something. I'd ask you to read this page to yourself, and then I'm going to ask you some questions.
A. Could you tell me who the writing is?
Q. Could you finish reading, and then I'll ask you some questions. Have you read right to the bottom, to the last line?
A. No. Here you mean, Mr. Braga? Yep.
Q. You read through the paper that I gave you?
A. Yeah. The general questions you asked me.
Q. Did you have any difficulty understanding what you read?
A. Some of it's not clear to me, no.
Q. Having read the document, does it help you to remember that you spoke with an agent named Braga following your Burger King meeting?
A. I remember about what I testified to.
Q. Does it help you to remember that you told Mr. Braga that you'd call him in three days because you were thinking of going to Chicago to get a lawyer?
MR. FERLAND: Objection. It's inappropriate use of that report.
THE COURT: It's inappropriate use of what?

MR. FERLAND: The report. He's trying to impeach him with someone else's report, someone else's statement.

THE COURT: I think he's trying to refresh his recollection.

MR. FERLAND: He tried to do that. It didn't help.

THE COURT: That objection at this point is overruled.

A. I don't get the Chicago, sir. There had to be some kind of a joke, facetious.

BY MR. WEINSTEIN:

Q. Having read the document, does that help you to remember that you were advised by Mr. Braga that you --

MR. FERLAND: Objection.

MR. WEINSTEIN: Do you want to hear the question?

THE COURT: I need to hear the question.

BY MR. WEINSTEIN:

Q. Having read the document, does that help you to remember that Mr. Braga told you --

MR. FERLAND: Objection. The content of the report is coming in through the question. The question is, "Does that refresh your recollection".

THE COURT: He can orient him on what he's trying to -- why don't you ask him if reading the report refreshes his recollection about what Mr. Braga told him.

MR. WEINSTEIN: I'll ask that question if you ask

me to.
BY MR. WEINSTEIN:
Q. Having read the report, does it help you to remember what you told Mr. Braga?
A. It seems like the questions you've already asked me.
Q. If it helps you to remember, yes or no. Does it help you to remember?
A. It helps me to remember that I --
Q. Then I'll ask you another question.
A. -- that I talked to Mr. Braga. I don't remember the Chicago deal.
Q. Did you tell Mr. Braga that you'd be going to Chicago? Yes or no.
A. Don't know. Don't recall.
Q. Did you tell Mr. Braga that you were going to ask Coloian to be your lawyer?
A. I think originally I did.
Q. Did Mr. Braga tell you that Coloian could not represent you?
A. I believe he said he might not be able to represent me because of the conflict.
Q. Did you ask Braga who you should get to be your lawyer?
A. Don't recall that.
Q. Did Mr. Braga tell you that he couldn't make any suggestions to you?

A. Don't recall that, sir.
Q. Did you tell Mr. Braga that you had to consider your brother Robert, your brother Bobby, before you answered any questions for the FBI?
A. Don't recall that.
Q. Did you, after a telephone conversation that I was just asking you about again, have contact with the FBI?
A. At what point was that, sir?
Q. At any point. After the Burger King meeting, that would be contact one; after a phone call from Braga to you, that would be contact number two.
Did you again have contact in any form with the FBI?
A. Yes, I did.
Q. And was that as a result of agents coming to you?
A. I don't recall that.
Q. Do you remember you initiating a call to the FBI after contacts one and two that I just laid out?
A. I don't know which way it went, sir.
Q. Do you remember receiving a grand jury subpoena?
A. Yes.
Q. And you received a grand jury subpoena on April 12 of 2016, correct?
A. The date I don't recall, but I remember the subpoena.
Q. And the subpoena was delivered to you by Mr. Braga and

his colleague agent as well, correct? Yes?
A. Yes.
Q. And you know the name of the other agent, don't you?
A. Jeff Cady.
Q. Mr. Cady?
A. Mr. Cady, yes.
Q. Mr. Cady is seated in the back row, is he not, with the brown jacket on?
A. Yes, I recognize. That's him.
Q. You know him pretty well, don't you, Mr. Cady?
A. I know him as an FBI agent.
Q. Good enough to call him Jeff all the time, right?
A. I call him Jeff, yeah.
Q. And so Mr. Braga and Mr. Cady served a grand jury subpoena to you, correct?
A. Mm-hmm.
Q. And at that time did you have a lawyer representing you in connection with the investigation?
A. I don't know if I did or I didn't. I think I did.
Q. You knew Mr. Cady initially from the 2011 case involving your brother Bobby, correct?
A. Yes.
Q. And Mr. Cady had provided a lot of comfort to your brother Bobby, hadn't he?
A. Well, you have to explain comfort.

Q. A lot of help.
A. Excuse me?
Q. A lot of help.
A. What kind of help, sir?
Q. Did anything that you knew that Mr. Cady did for your brother Bobby in your mind qualify as help?
A. I think it was mutual help, sir.
Q. So Bobby helped the FBI and the FBI helped Bobby?
A. I think it was consideration, if that's what it was.
Q. Certainly didn't hurt him, right, Bobby?
A. Who didn't hurt who?
Q. Mr. Cady didn't hurt him. He helped him.
A. I don't know if Cady had the authority to help him. I don't know who helped him.
Q. Did you communicate, speak with Mr. Cady back in 2011 concerning your brother Bobby's predicaments, problems?
A. 2011? Yeah. I think when my brother went to the grand jury I might have talked to them.
Q. When the agents served you the subpoena, did the agents give you some instructions not to talk about the fact that they had served you with a subpoena with anybody other than Bobby?
A. No, they didn't.
Q. They didn't?
A. Oh, to talk about the subpoena?

Q. To talk about the fact that you had been subpoenaed with anybody other than Bobby.
A. I can't say, sir.
Q. Do you remember saying to the agents on the day you got the subpoena the question, "Was Bobby going to lose contact with his children due to the possible charges against him?"
A. I remember that, yeah.
Q. You do remember that?
A. Mm-hmm. Sure. I was concerned about his kids.
Q. And you told the agents that your main concern, your main concern was Bobby's children?
A. Correct.
Q. And your main concern was whether Bobby would be able to keep contact with them, correct?
A. I don't know specifically that, but there was a couple of things in there I asked about.
Q. And you also told the agents that your brother Bobby's main concern was his children. Yes?
A. I guess. I can't say for sure, but that would --
Q. Do you remember saying that? Do you remember saying that your brother's main concern --
A. I don't remember saying it, but I'm sure it was his main concern. I don't remember saying it.
Q. And you were referring when you were talking about your concern to the two younger kids, right?

A. Yes.
Q. And Bobby's concern was the two younger kids, correct?
A. True. Yes.
Q. In that meeting where you got your grand jury subpoena you expressed to the agents that you trusted them, right?
A. The agents?
Q. You told the agents that you trusted them?
A. I could have. I don't remember it, but I do trust them.
Q. Because they had delivered assistance to your brother Bobby in the past, correct?
A. I don't know if that's why I told them --
Q. And you were hoping --
MR. WYSHAK: Mr. Weinstein repeatedly cuts the witness off. Would you please let the witness --
THE COURT: Yes. You are cutting him off. Ask the question and give him time to answer. Okay?
A. Do you want to ask that again?
BY MR. WEINSTEIN:
Q. I'll ask you a different question, Mr. DeLuca.
A. Oh, okay.
Q. You told the agents or you trusted the agents. Yes?
A. At the grand jury?
Q. When they served the grand jury subpoena to you.
A. I don't know if it was there I told them, but I did at one time or another.

Q. And you trusted them because they had provided assistance to your brother Bobby in the past in 2011?
A. That was never spoken about for the trust. I trust them because that was my judgment.
Q. You were hoping that they would be able to help both you and your brother Bobby in connection with any problem that might come about as a result of the body being dug up from Ricci's ground?
A. No. I think we talked more about possible cooperation.
Q. Cooperation --
A. Maybe I said --
Q. -- and you were hoping, were you not, in cooperation to avoid any prison time for yourself?
A. The penalties --
Q. My question is were you hoping.
MR. WYSHAK: Your Honor --
THE COURT: Hold on. Let him answer the question, please.
A. My concern was not on the penalties at that point. I had no idea what the penalties were, what my position was. I know one thing for sure. I had committed a crime, and there was a body that was found. So I felt that I was in a negative position.
BY MR. WEINSTEIN:
Q. Have you been charged in any crime in connection with

that negative position that you've just identified?
A. I have not.
MR. WYSHAK: Objection. Objection.
THE COURT: Basis?
MR. WYSHAK: It's an inappropriate question. The statute of limitations has expired.
MR. WEINSTEIN: If he's going to be keep making speeches, I will --
THE COURT: Hold on. That was inappropriate. The objection is overruled. If you want to be seen at sidebar, we can.
MR. SHEA: I would, please.
THE COURT: Let's go.
(Bench conference held.)
THE COURT: It's his side bar.
MR. SHEA: Thank you. I'm objecting to the fact that the way the government is speaking in court, not just saying they have an objection, but spelling it out in ways that undercut the defense.
THE COURT: I hear you. I just spoke to him about it when he made the objection.
MR. WYSHAK: You asked me for the basis.
THE COURT: I asked you for the basis, but not the narrative that went with the basis. You could have said inappropriate. You could have said side bar. You could have

said -- instead you said statute of limitations which is not any recognizable objection.

MR. WYSHAK: Well, so --

THE COURT: But they're entitled to ask if it's a benefit. If you want to clear it up that it's not a benefit, but you did manage to charge these people. It's a reasonable question for them to ask.

MR. WYSHAK: They were charged with murder. But to the extent that Mr. DeLuca had any criminal liability it was as an accessory after the fact. He didn't participate in the murder. He had no knowledge of the murder. He didn't even know who the person was. He received a body after the fact. There's a five-year statute of limitations in accessory after the fact.

THE COURT: The white noise is on. Keep it down, please.

MR. WYSHAK: So to insinuate on cross that he was subject to prosecution for his participation in this event is inappropriate.

THE COURT: They're allowed to ask about what benefits he received.

MR. SHEA: The other is Mr. Wyshak I think is an experienced attorney understand what's redirect would be for, too. So if he wants to make the point that they were beyond the statute of limitations.

THE COURT: I will let the point, but I'm not going to entertain any objection about he's not a lawyer, it's a legal opinion. If he needs to put someone else on to establish that.

MR. SHEA: Your Honor, all I'm trying to say is he doesn't need to be saying statute of limitations.

THE COURT: I think that we have now killed the horse. Okay?

MR. WYSHAK: But I would say we are not limited to redirect examination if a question on cross examination is not made in good faith. And that's what that question was. There was no good faith basis to believe that he was subject to any prosecution for his conduct in this event. We are entitled to object to that.

MR. SHEA: If you're going to allege that, do it at side bar.

THE COURT: Stop. The horse is dead. Okay? I get your objection. I've ruled on it. You've won. So declare a victory and walk away. Okay?

MR. SHEA: He goes on.

THE COURT: He's making a different point. All right.

MR. SHEA: It's not a different point.

THE COURT: I don't know that it's clear to this jury or there's anybody else that there's a statute of

limitations problem. I don't know if there's any way -- they are entitled to ask him that question. You're entitled to explore. You charged these people.

MR. WYSHAK: We've charged them with murder, not accessory after the fact.

THE COURT: They can ask the question. You can clear it up. I don't think that that's an inappropriate question.

MR. WYSHAK: Can we ask the Court to give the jury a charge that states what occurs after the fact of murder is only prosecutable as an accessory, and there's a five-year statute of limitations. It's now 2016 when the body was recovered. 23 years have passed. It was not a prosecutable offense. So if you want to allow them to explore this area, I'm going to request that the Court charge that's a matter of law.

MR. CROWE: Judge, if I could chime in. It seems to be a standard cross examination. He's been talking about the state of mind of this witness and what the witness' motivations were. Whether or not the crime was prosecutable at the time or was barred by a statute of limitations, I don't think is relevant at all.

MR. WYSHAK: That's a different question. He can ask him about his state of mind.

THE COURT: Ask the question. You'll have your

chance at redirect. We'll see where we are. If it warrants a written instruction, we'll revisit it.

(End of bench conference.)

THE COURT: We're going to take a ten-minute recess. There's been a request for a rest room break. We'll be back about 10 minutes to one.

THE CLERK: All rise for the jury.

(The jury exits the courtroom.)

(Recess.)

[The following is an ex parte conference. Present are the following: Fred Wyshak, William Ferland and George Sheketoff.]

MR. WYSHAK: Your Honor, may I approach with Mr. Sheketoff? So Mr. Sheketoff represents that a witness who's due to testify tomorrow, his name is Michael Dezotell, we intend to ask Mr. Dezotell about his relationship with Frank Salemme in 1993. And Mr. Dezotell was also an intermediary between Mr. Salemme and an individual named Henry Lewis who provided some of the financing for The Channel. So we want to ask him about that.

Clearly these are events that occurred 25 years ago today. Mr. Sheketoff has informed me that his client intends to assert The Fifth Amendment. It's our position that that's an unlawful assertion of the Fifth Amendment.

THE COURT: What do you think his criminal exposure

is?

MR. SHEKETOFF: Nothing from back then. But what I'm concerned about, and I've told the government this, is questions that may come either from the government or from the defense about what he does for a living now, which I think are typically appropriate questions. The theory being if I was the defendant, the theory being that he's trying to curry favor with the government in some fashion because of what he does for a living presently.

THE COURT: What kind of deal is he getting here?

MR. WYSHAK: Nothing. We issued a subpoena to him. He did testify in the grand jury in 1994.

THE COURT: I take from what he's saying that he's living a less than lawful life.

MR. WYSHAK: I don't know. He hasn't told us that.

MR. SHEKETOFF: Which is another --

MR. WYSHAK: Quite frankly, I don't care if he wants to assert the Fifth. The question isn't about what he currently does. He can assert the Fifth on those questions. It's not really material to the issue that he's testifying about. In terms of whether I can make a good-faith representation to the department and get an immunity order --

THE COURT: Don't you want an immunity order for him?

MR. SHEKETOFF: Yes.

THE COURT: Don't you want to tell them what you're immunizing for him? Don't you want to tell him you'd get an immunity?

MR. WYSHAK: I'm not.

THE COURT: If you knew that he had some exposure -- if he tells you what he does for a living, and it turns out he has criminal exposure, is there an immunity letter or not?

MR. WYSHAK: I don't think so, Your Honor, because I don't intend to ask him about what he currently does for a living.

THE COURT: How about you don't do it through the direct examination, and he's on cross examination and he asserts the Fifth.

MR. WYSHAK: He can.

THE COURT: So he says don't you think that they have a right to know sort of that we're talking about big crimes, little crimes, or medium crimes in order to assess his credibility? Like a bookmaker might have different credibility issues than a murderer, right?

MR. SHEKETOFF: Which one is worse?

THE COURT: Different I said.

MR. WYSHAK: Ultimately the issue is -- not that I'm suggesting this, but in order for the Court to determine whether or not there's a good-faith assertion of the Fifth,

Mr. Sheketoff and his client can make an ex parte to the Court. But even assuming the assertion of the Fifth was made in good faith currently, if he takes the Fifth on the witness stand, it doesn't really impact, I think.

They can make a motion to strike his testimony, but I think that the law is that unless it goes to a material issue which is -- his current employment is not material, then it's not subject to a motion to strike. If, for example, he were to take the Fifth on an issue of his involvement in the murder, then it would be subject to a motion to strike.

THE COURT: I don't honestly know the case law in that area. Do you want to brief that? Because he's busy.

MR. SHEKETOFF: In what sense is he busy?

THE COURT: Here's the thing. I have worked with Mr. Sheketoff before as I know you have. I saw Mr. Ferland shaking his hand, so I think he's worked with him before. I'm presuming that if he's making a Fifth Amendment assertion then he's got a Fifth Amendment basis for doing it.

MR. WYSHAK: Will he take a letter?

MR. SHEKETOFF: Yes.

MR. WYSHAK: I'll give him a letter.

THE COURT: Great. Thank you. We did good work here.

[End of conference.]

THE CLERK: All rise for the jury.

(The jury enters the courtroom.)

THE CLERK: Court is back in session. Please be seated.

BY MR. WEINSTEIN:

Q. Mr. DeLuca?

A. Yes.

Q. Following your receiving the grand jury subpoena, did you have conversations with your brother Bobby?

A. Yes, I did.

Q. Do you remember that you went to the grand jury in May of 2016?

A. I remember the grand jury, not the dates.

Q. Do you remember meeting with lawyers for the United States Attorney in Worcester, Massachusetts?

A. I do.

Q. At that time you had your own lawyer, correct?

A. Correct.

Q. Your lawyer was a fellow named Brian Murphy?

A. Correct, yes.

Q. And you found him all on your own?

A. No.

Q. Did somebody find Mr. Murphy for you?

A. I told I think it was Mr. Braga, I'm not sure, that I needed a lawyer.

Q. So one of the agents found Mr. Murphy for you?
A. I don't know if one of the agents found it, if I told them to, or if the courts found them. I told them I couldn't afford a lawyer and contact the proper authorities or law men, whatever, and see if I could get a lawyer.
Q. Do I understand you correctly that you asked for assistance from the government to get a lawyer to represent you?
A. Yes.
Q. And you did that because you were not able to afford a lawyer through your own means?
A. Correct.
Q. Did you file any forms with the government or with the court system in order for you to have a lawyer?
A. I did.
Q. Do you remember whether that form required you to supply financial information?
A. I did.
Q. And as a result of the form that you filed, it was determined for you that the court system would appoint a lawyer to represent you in connection with whatever would be going forward?
A. Yes.
Q. And is that how you came to be represented by Mr. Murphy?
A. Yes.

Q. Did you meet with Mr. Murphy at his own office in Worcester?
A. I did.
Q. More than once?
A. Yes.
Q. Now, before meeting with Mr. Murphy and after the date that you received the grand jury subpoena, you've told us that you had telephone conversations with your brother Bobby?
A. Yes.
Q. And how many times did you speak with Bobby during that timeframe?
A. I couldn't tell you that. There was a few, a few times.
Q. Did you say two or a few?
A. No. I said a few.
Q. Okay. When you spoke with him, was one of the subjects that you talked about the fact that you were going to speak again with the prosecutor's office, that you were going to meet with the FBI or meet with the federal prosecutors?
A. I may have. I'm not sure.
Q. Did you discuss the details of what you were going to tell the government?
A. No.
Q. Did he discuss with you what he wanted you to tell them?
A. No.
Q. So there was no conversation between approximately

April 12, 2016, and --

A. Well, if you --

Q. Let me finish, please. -- and approximately May 16 or 13 of 2016 with regard to anything about the person who you buried?

A. I used one word, sir. The truth.

Q. So that's the only thing that you and Bobby said to each other was tell the truth?

A. I can't remember him saying that or not. I know I told him that.

Q. You told him you're just going to tell the truth?

A. Yeah.

Q. And he didn't say anything to you about what the truth is?

A. No, sir. I don't recall any of that.

Q. Or what the truth should be? Can you answer that?

A. What he said --

Q. Did Bobby tell you anything about what the truth should be?

A. No.

Q. So I want to talk for just a moment now about an agreement that you entered into with the United States Attorney's office for Massachusetts.

Do you know what I'm referring to?

A. Explain it, please.

Q. Sure. I'll try my best. Do you remember that you signed a letter that had been written to Brian Murphy, your lawyer?
A. I can't recall specifically.
Q. I'm going to show you that page and ask you to look at the highlighted signature. Do you see that?
A. Yeah. I know that's my signature. Can I read it?
Q. Sure. Take the whole thing.
A. This signature here pertaining to this, too?
Q. I'm going to ask questions in just a minute, sir. Tell me when you're done reading it. That was your request.
A. I'm all set.
Q. Do you now recall signing the second page of a two-page letter?
A. Those two pages?
Q. Yes.
A. So then that signature takes in both pages, correct?
Q. Did you sign a two-page letter?
A. I only seen my signature on one page, sir. Maybe I didn't look.
Q. Did you sign on page 2, what was the second page of a two-page letter dated May 13, 2016, addressed to Brian Murphy and referencing Joseph DeLuca?
A. I did.
Q. And did you read it before you signed it?
A. I read it, yeah.

Q. Did you understand what you read before you signed it?
A. Pretty much, yeah.
Q. Pretty much?
A. Well, I'm not a lawyer.
Q. That's not my question. Did you understand it?
A. Yes.
Q. Pretty much or you understood it all?
A. I would say I understood it all.
Q. And that was a form of agreement between you, your lawyer, and the United States Attorney's Office, correct?
A. Yes.
Q. And do I fairly summarize the meaning of the letter by asking you did that letter inform you that you would not be prosecuted for anything that you discussed with the U.S. Attorneys during the meeting that was about to follow?
A. Well, specifically that nothing could be used against me in the court order. That's how I understood it.
Q. All right. And that would be excepting, of course, if you lied?
A. Except if I lie, yeah.
Q. So with this form of protection and agreement, you did sit down and talk with the prosecutors, correct?
A. I did.
Q. And were there other folks involved in the meeting other than just the federal prosecutors? Yes or no.

A. Yes.
Q. Yes?
A. Yes.
Q. So the prosecutors, those were the two men that are sitting at the table here, Mr. Ferland, and Mr. Wyshak?
A. Yes.
Q. Mr. Murphy, your lawyer, was present?
A. Yes.
Q. And also FBI agents Mr. Cady and Mr. Braga?
A. Yes.
Q. And there were other law enforcement men there. One, if you remember the name Johnson from the Mass. State Police?
A. Not the name, sir.
Q. I'm going to ask you another name. Fanning, do you remember that name?
A. Not specifically.
Q. But did they all ask you questions?
A. I think they all asked me at least one or two questions, yeah.
Q. And you discussed various matters, various things with them, correct?
A. Correct.
Q. You discussed how you used to be a very successful shoplifter, right?
A. I think I said booster, sir.

Q. Well, you said booster then -- am I correct that you used the term booster this morning in your testimony? You described yourself as a booster?

A. Correct.

Q. A booster is a high end shoplifter? Yes?

A. No, it's not a high end. It's a sophisticated.

Q. Sophisticated -- I'm sorry. I want to make sure I hear you.

A. Sophisticated, sir.

Q. You're a sophisticated shoplifter?

A. Not anymore.

Q. You were a sophisticated shoplifter, also known as in your terms a booster?

A. Correct.

Q. Meaning you stole valuable merchandise in large quantities?

A. I wouldn't say it was large quantity as a shoplifter, but --

Q. As a booster?

A. Higher priced items.

Q. So you could make more money when you sold the stolen merchandise?

A. Yes. Yes, right.

Q. And you describe yourself as very successful at that. Yes?

A. Successful as a booster.
Q. So as a successful booster you came to the attention of the local La Cosa Nostra?
A. That didn't bring -- that didn't bring me to the attention of the La Cosa Nostra.
Q. Did you tell the folks at this meeting on May 13 that ultimately your boosting or shoplifting caught the attention of various individuals associated with the New England La Cosa Nostra?
A. Well, it did, it did associates. I didn't say associated with, like the fencing.
Q. You also discussed something called the numbers racket?
A. Mm-hmm.
Q. You were involved in the numbers racket?
A. For a brief time, yeah.
Q. What's the numbers racket?
A. The numbers racket is just like your Powerball but three numbers.
Q. What's that mean? Tell me what you did in connection with what you described as the --
A. I ran --
Q. Let me finish. I'll let you and first you let me. Tell us what you did in connection with the numbers racket.
A. When I became friends with Mr. Calle, he asked me to do the numbers racket, which is three numbers which are taken

from three different races, and it's impossible to cheat. And those three numbers, if you play those three numbers -- For instance, if you play 3, 4, 5, and they came out after they made up all the equations, at the end of the day, those three numbers, if you played those numbers -- at that time they were paying $250 to $1 if you hit those three numbers. And then it changed. They were based on horse racing and the last numbers of horse races.

Q. So it was impossible to cheat the numbers racket?

A. It was.

Q. Unless there was a horse race that you were involved in fixing?

A. Impossible to cheat even with a fixed horse race.

Q. So you were involved in fixing horse races. Yes?

A. I was, yes.

Q. But any horse race you fixed didn't affect the outcome of the numbers game?

A. No. It wasn't meant to.

Q. Because you couldn't beat the numbers game?

A. Right.

Q. But you worked in what role in the numbers racket?

A. I briefly worked in the role of collecting the numbers. The runners would give the numbers to me. I'd make the pay offs for Mr. Calle who bank rolled the whole situation, and he was the captain we spoke of early.

Q. Did you describe yourself as a person who oversaw Calle's numbers operation?
A. For a brief time, yes.
Q. You were also involved in bookmaking itself?
A. That was --
Q. Were you involved in bookmaking in Cranston, Rhode Island?
A. Not actual bookmaking.
Q. Did you tell the folks assembled at this meeting on May 13 of 2016 that you were involved in a bookmaking operation in Cranston, Rhode Island?
A. Bookmaking operation, yes.
Q. So what did you do in the bookmaking operation in Cranston, Rhode Island?
A. I collected money from the runners or from the bookmakers. I ran that operation for a while, and then I didn't like it, so I let it go.
Q. Mr. DeLuca, you've had experience in deception and deceit, haven't you?
A. Could you give me a for instance, sir?
Q. You've had experience deceiving people in various ventures, haven't you?
A. In some things, yes. Various ventures.
Q. And those ventures included fixing horse races. Yes?
A. Yes.

Q. Those ventures included bribing jockeys. Yes?
A. Yes.
Q. Bribing jockeys both to win the race and more likely not -- bribing jockeys to pull back so that somebody else would win the race?
A. You didn't have to bribe a jockey to win.
Q. You had to bribe somebody so that the jockey could win?
A. Right.
Q. So you had to get the guys to pull back so that they're not the winners, right?
A. True.
Q. And somebody else becomes the winner?
A. Exactly.
Q. And you deceive all the betters when you're involved in that process?
A. Exactly.
Q. And you were pretty good at it?
A. I was.
Q. You were also involved in the deception and deceit of post betting?
A. Post what?
Q. Post betting?
A. You're referring to past posting?
Q. Past posting of events, sporting events, right? And you do that through bookmakers?

A. Through bookmakers, yes.
Q. And would you tell us what it is that is involved with past posting?
A. Well, you bet the horse after it goes under the wire. The guy on the phone who is an independent bookmaker doesn't know that the race is going off.
Q. So that's the guy you're deceiving in that kind of operation, isn't it?
A. Exactly right, yes.
Q. Who else?
A. Who else what?
Q. Were you deceiving?
A. Who else?
Q. Who else were you deceiving?
A. Who else am I deceiving?

MR. FERLAND: Your Honor, could we have some clarification? Does he mean within the context of the past post?

THE COURT: I got it. The question is just not clear.

MR. WEINSTEIN: I'll ask a focused question.

BY MR. WEINSTEIN:
Q. In connection with racing, in particular now I'm going to ask you questions about kennel racing or dog tracks. Were you involved in that activity?

A. I was.
Q. What were the things that you did in connection with the dog track?
A. I trained dogs.
Q. Well, you did more than that, did you not, Mr. DeLuca?
A. Sure. I bet on them.
Q. And you did more than that, Mr. DeLuca, did you not?
A. I engineered the outcome of a race.
Q. In other words, fixed it?
A. Sure, if you will, vernacular, sure.
Q. An act of deception and deceit. Yes?
A. Yes.
Q. You've given up that activity at this stage of your life, haven't you?
A. Yeah. Quite a few years ago.
Q. Can't make money at it today. Is that a fair statement?
A. True. All over.
Q. Following the meeting on May 13, do you remember calling the FBI?
A. That's like picking a needle out of haystack. That day I don't --
Q. Put aside the date and let's talk about the event.
A. Give me a landmark.
Q. Let's put aside the date, and I'm going to ask you about the event. The event is the meeting after you signed the

letter that we've talked about with Mr. Wyshak, Ferland, the agents and the cops.

Do you then speak with Mr. Cady by phone?

A. Can you refresh my memory on that?

Q. Did you speak with him just five days later about Kevin Hanrahan?

A. Don't really recall that one.

Q. Let me go back to your conversation with the prosecutors and the agents. Okay?

A. Sure.

Q. You're clear that your brother Bobby spoke with you the night before you received the body about the fact that you're going to have to do something, the night before?

A. Are you talking about --

Q. You talked about meeting Frank Salemme.

A. Right.

Q. Back in May of 1993?

A. Right.

Q. And you knew you were going to meet with him because your brother Bobby had been on the phone with him the night before you met with him?

A. Right.

Q. That's your testimony, correct?

A. It is. That's my recollection.

Q. You're not making it up, are you?

A. No. I'm in a court of law, sir.
Q. So it was the night before that you now say that this phone conversation took place between your brother and Mr. Salemme, correct?
A. Yes. That's my recollection.
Q. Now, at that time in May of 1993, you were not a made member of La Cosa Nostra?
A. I was not.
Q. Your brother was?
A. Yes.
Q. But you knew something about La Cosa Nostra, didn't you?
A. Knew a lot about it.
Q. The mob, the mafia, all the same labels to you, correct?
A. Yes. Right, right.
Q. And you knew that mob members went by the term like a made guy. Is that a term you knew?
A. Made guy, yes.
Q. Made guys, they operated under sort of a corporate structure, you know, somebody was above somebody, somebody was above somebody. Yes? Yes?
A. Yes.
Q. And then at the top was the boss?
A. The boss, yes.
Q. Or the representante?
A. Never heard of that with the mob. The boss is the term.

Q. The boss. And the boss has others beneath him to do work?
A. What kind of work are you referring to?
Q. Any work I'm asking you about.
A. He does.
Q. The boss has a thing called a capo or capo regime. Yup?
A. Yup.
Q. And the capo is supposed to have a crew underneath him like soldiers. Yes?
A. Yes.
Q. And those are the worker bees, the soldiers, right?
A. Yes.
Q. They do the dirty work, right?
A. Usually.
Q. And then they report up the chain of command to the capo, right?

MR. SHEA: Objection. Judge, could I have a continuing spillover?

THE COURT: Yes.

BY MR. WEINSTEIN:

Q. The soldiers report up the chain of command to the capo. Yes?
A. Are you talking currently, sir?
Q. I'm talking about the time in 1993 before you became a member of La Cosa Nostra. But I'm asking you about what your

state of knowledge was as of May of 1993.
Are you with me for the questioning?
A. I am.
Q. Okay. So soldiers did the dirty work, and they reported up the chain to the capo in your experience and knowledge in May of 1993. Yes?
A. I can't say that that happened in 1993. I cannot say it happened.
Q. Is there a reason you can't say?
A. Yes. Because things changed drastically in the mob.
Q. All right.
A. Lost a lot of men to the cemetery and to the prisons.
Q. In the years prior to May of 1993, did I describe the organizational operations somewhat accurately?
A. Yes.
Q. All right. Now, you understood in 1993 that as a non member of La Cosa Nostra you had limited authority in terms of the operations of La Cosa Nostra, right?
A. Well --
Q. In 1993.
A. According to the rules I was supposed to, but I was a well respected person, and I had as much authority, which I never used because I'd been around so long, and I had the respect, that if I wanted the authority, no one would --
Q. Could you tell a boss what to do as a non member?

A. Can I tell what?
Q. Can you tell a boss?
A. A boss?
Q. Yeah.
A. No.
Q. You couldn't tell a boss what to do if you were a made member.
A. True.
Q. You became a made member, did you not?
A. Yes.
Q. When you were a made member, you weren't telling the bosses what to do, were you?
A. Tell him personally what to do?
Q. Tell any boss.
A. No. But I was in a position where if I wanted to do something without a specific okay, I don't mean murder or anything like that --
Q. You could do acts on your own once you became a made man without specifically getting permission from the boss, correct?
A. No, that's not correct. Once you're a made man now, the --
Q. I'm asking about 1993. You became a made man in '93, correct?
A. True.

Q. And when you became a made man, you had to -- you did attend something called an induction ceremony, right?
A. Yes.
Q. And in the induction ceremony you swore an oath, correct?
A. Correct.
Q. An oath that was supposed to have some kind of meaning, correct?
A. Supposedly, yeah.
Q. Just like the oath you took to tell the truth here in court, correct?

MR. FERLAND: Objection.

THE COURT: Basis?

MR. FERLAND: Judge, the distinction between those two.

THE COURT: Overruled.

BY MR. WEINSTEIN:
Q. Similar to the oath that you took here in court this morning, right?
A. No, it's not similar.
Q. It's not similar. Is that what you just said?
A. Not similar.
Q. The oath that you took here is one to tell the truth, the whole truth, and nothing but the truth.
A. True.
Q. Of course you meant every word of that, didn't you?

A. No question about it.
Q. And when you took the oath to become a member of the mafia, you swore certain things, didn't you?
A. I did.
Q. You swore that you would not divulge any secrets about the organization?
A. I did.
Q. And the oath that you swore was an oath that was given to you, spoken to you in the Italian language, right?
A. It was in English.
Q. Who swore you in?
A. Mr. Cicilline -- Mr. Salemme.
Q. Mr. Cicilline is a lawyer, right? I know you misspoke. I'm not playing games.
A. He's a lawyer and a Senator, a Congressman.
Q. His son is a Congressman. Jack's the lawyer. I'm going to ask you another question.

MR. WYSHAK: I'd like an answer to the question that was asked.

THE COURT: The question was who swore you in.

A. Mr. Salemme.
BY MR. WEINSTEIN:
Q. Now, the oath that you would receive or that you swore to was that you would protect your family?
A. Right.

Q. Protect all your friends. Yes?
A. Specific friends.
Q. That you would not divulge any secret of the organization?
A. Yup. Yes.
Q. To obey the rules of the organization?
A. Yes.
Q. With love, correct?
A. I don't remember those words.
Q. And to keep Omerta. Do you remember that word?
A. Yes.
Q. Meaning silence?
A. Correct.
Q. And you swore that -- did you have the card burning as part of your induction ceremony?
A. I did.
Q. There's a card of a saint that was burned, correct?
A. That's true.
Q. And when the card of a saint was burning, you swore that, "As the saint burns, so will burn your soul if you violate Omerta."
A. That's correct, sir.
Q. You swore that you'd enter the organization alive and you'd get out dead, right? That oath didn't mean a darn thing to you, did it? Did it?

A. Are you complete on that?
Q. There's more to the oath. Do you want me to go through it?
A. No. I just wanted you to specifically say that they also said if your brother breaks them, them oaths, that you would have to go against him.
Q. Against your brother?
A. Yeah.
Q. There were other little bits that I haven't asked about?
A. Yeah, right. Go ahead.
Q. My question remains. That oath didn't mean a darn thing to you, did it?
A. Excuse me?
Q. That oath didn't mean a darn thing to you, did it?
A. Well, currently it doesn't mean much, yes, sir, among the mob.
Q. You talked earlier today about a car that was at Tony Lorenzo's Jewelry Shop. Do you remember speaking to that?
A. Yes.
Q. Now, you've discussed with the government the fact that you were at this drug store on Mineral Ave.?
A. Mineral Springs.
Q. I said you discussed with the government that you were at the drug store on Mineral Ave.
A. Mineral Springs, sir.

Q. Mineral Springs Avenue in North Providence?
A. Yes, sir.
Q. And that you were there in your car waiting for Mr. Salemme?
A. No, I didn't.
Q. You didn't say that today. You said today that you were there in a car that you had picked up at Tony Lorenzo's.
A. Right.
Q. That's what you said today?
A. Correct.
Q. You said today that you picked up the car, and you knew that there would be a key there?
A. Right.
Q. And you found the key. And the key was under a tire?
A. Two keys.
Q. Under a tire?
A. The front diver's side.
Q. The front diver's side under the tire or on top?
A. On top of the tire.
Q. And you checked the key to make sure that it unlocked the car. Yes?
A. Yes.
Q. And you wanted to make sure that the car worked, the engine ran?
A. Mm-hmm.

Q. And you started up the car. Yes?
A. Yes.
Q. And you drove the car from Tony Lorenzo's, that's on Rose Street or Rose Ave.?
A. Yup.
Q. And you drove it back to the drug store?
A. Correct.
Q. And you were waiting there at the drug store. This is what you said this morning now, right?
A. Yup.
Q. And this morning you said Mr. Salemme was already there?
A. True.
Q. Because you saw him walking around. And you gave him the high sign, and he followed you in that car where the key was underneath the wheel. That's what you told us this morning, right?
A. What key? You're getting the key mixed up, sir. I'm in the car with the key. It was in the ignition.
Q. After you first went to Lorenzo's, found the key underneath the wheel, picked it up, turned the key on, you drove it over to the drug store, correct?
A. Right.
Q. I don't have that mixed up now, right?
A. No, but you did.
Q. So, sir, now my question. Mr. Salemme follows you back

to Lorenzo's?
A. Right.
Q. You finish up at Lorenzo's, and you left the key there?
A. On the tire.
Q. Were you planning that somebody else was coming to get the car?
A. Didn't know.
Q. Did somebody tell you to leave the key at Tony Lorenzo's with the car?
A. No, not at that point.
Q. Did you have a plan to go back on your own to Tony Lorenzo's to get the key off the wheel?
A. Well, I thought that --
Q. Did you have the plan to go back to Tony Lorenzo's?
MR. WYSHAK: I object.
THE COURT: All you have to do, Mr. Wyshak, is object. The objection is sustained. When you ask the question, give him a chance to answer it. The question was did you have the plan to go back to Tony Lorenzo's.
A. Well, it wasn't a plan carved in stone. It was -- we were going to do something. Somebody was going to go back. Something was going to happen. We did not have anything specifically planned, not that I knew of.
BY MR. WEINSTEIN:
Q. Did your brother Bobby tell you drive back to Tony

Lorenzo's, leave the car, leave the key? Yes or no. Did Bobby tell you that?

A. No, he didn't. Not that I recall. It was only common sense, leave the key.

Q. You're telling us now that it's only common sense to leave a car with a body in the trunk and leave the key to the car on the wheel and take off?

A. Right.

Q. To you that is common sense. Is that your statement?

A. Because, because --

Q. Is that your statement? Common sense?

A. Yup, it is.

Q. Bobby didn't tell you to do that?

A. Not that I recall.

Q. Was there anybody else involved in the event of taking the car as you've told us today from Tony Lorenzo's to the drug store on Mineral Springs and back to Tony Lorenzo's?

A. Just myself.

Q. In fact, your brother Bobby wasn't even with you when you tell us you saw Mr. Salemme that morning.

A. Yes, right. Correct.

MR. WEINSTEIN: How much longer, Judge? It's 1:30.

THE COURT: Are you at a good stopping point?

MR. WEINSTEIN: This is a fair stopping point.

THE COURT: So we're going to break for the day

today. My usual instructions. Keep an open mind. Don't talk to anybody. Stay off social media. No homework. No research or anything if you have curiosity. See you tomorrow morning.

THE CLERK: All rise for the jury.

(The jury exits the courtroom.)

THE COURT: I want to resolve the issue of the death certificate. Would you rather do it tomorrow? Do you want me to do it now? Do you want me to do it tomorrow morning?

MR. CROWE: The death certificate issue?

MR. FERLAND: I would like to resolve that now.

THE COURT: We did some research on it yesterday. I also took the liberty of calling a State Court judge. I don't think that there's a statute that's applicable to this situation. I found the statute that you're talking about, but I don't think it really goes to this. The S.J.C. law on it is that it's the better practice strongly suggested to delete the word homicide from the death certificate because a homicide is defined under state law as a wrongful killing. And whether or not something was wrongful or not despite the fact that it might be a killing is an issue left to the jury.

There's no federal law on it. It seems to me that sort of discretion being the better part of valor is that the prudent thing is to take that word out of it, and the exhibit

is otherwise admitted. As a practical matter, I don't think it makes much difference in this case since it's not a claim of self-defense. I think it's pretty clear that we're talking about a murder. I haven't seen the death certificate, but I take it it says homicide on it.

MR. FERLAND: It does.

THE COURT: It's admissible but with that word redacted. Mr. Shea?

MR. SHEA: Judge, Mr. Wyshak turned over that tape yesterday. I've listened to it. I think it has relevance, I think it has relevance to something they filed just last evening. But the problem for me is that at least the report I have which is from 18228 and 18229, those are the Bates numbers, doesn't say what -- it says who was taped and who's in the conversation.

But the two people in the conversation are no longer living. And it doesn't have on it which agents were involved in the investigation and the taping. So for me to be able to do anything with the tape at this point without a government agreement that Mr. Wyshak did offer yesterday, wanting to follow up, if I could get -- if the government has and I could get the names of the individual agents involved, that would be very helpful.

THE COURT: Hold on. Did you ask them before you asked me?

MR. FERLAND: No.
THE COURT: Why didn't you ask them?
MR. SHEA: I've tried speaking to Mr. Wyshak, and it seems that we don't do that well.
THE COURT: How about Mr. Ferland?
MR. SHEA: I didn't try Mr. Ferland because Mr. Wyshak had said that he had spent three hours looking for it.
THE COURT: Maybe Mr. Crowe and Mr. Ferland can talk and then it will all go smoothly.
MR. FERLAND: Judge, as we mentioned yesterday, we're more than willing. In fact, we'd like to play the recording for the jury. If there's not going to be foundational objections, we'll put the recording in. And we'll prepare a brief transcript of it.
MR. SHEA: I'd like to know the names of the agents.
THE COURT: It's a tape off a wiretap, right?
MR. FERLAND: It did, Judge. It's the Court is aware, we're talking about line sheets that go back 26 years.
THE COURT: The tape speaks for itself. At this point off a wiretap, like a keeper of records witness would do, I take it?
MR. SHEA: Yeah, sure.
THE COURT: You want somebody to get on the stand

and say this was a wiretap, this was a conversation recorded during that wiretap at this date and time?

MR. SHEA: Yes, please.

MR. FERLAND: We can prepare a stipulation to that effect.

THE COURT: That's fine. Good idea. You referred to something the government filed last night. Did you all file something last night? Did I miss it?

MR. WYSHAK: Yes. I filed a notice that we intend to introduce a transcript of a tape recording that's been lost or destroyed.

THE COURT: Yes. I saw that. Any objection to that?

MR. SHEA: Well, here's -- while it doesn't hit Mr. Weadick particularly, my objection to it is that I was berated at some level the other day for requesting this 1992 tape because it was old and not relevant and more than a year before. Anyway --

THE COURT: You can berate him back and then wind up at the same place. You got that transcript and everybody can berate everybody and we'll admit them.

MR. SHEA: Here's why it's relevant. I'll just get to the point. The tape that they're seeking to introduce is from 1990, and it purports to say that it shows the that the Salemmes, particularly Mr. Salemme, Jr., is talking about now

we're going to have The Channel, it's the biggest rock club, we're going to buy The Channel. The tape that I just got turned over, the one that we were just discussing, is a conversation from 1992 in which Mr. DiSarro is saying to Mr. Kaufman -- so it's about two years after or some significant amount of months after the Rossi tape they're looking to put in, that Mr. DiSarro and Kaufman are talking about The Channel.

And I believe it's Kaufman who says it first, says to Mr. DiSarro something about, hey, what about The Channel, it's closing. And Mr. DiSarro says, yeah, originally -- I'm paraphrasing, but originally they wanted something like $600,000, now we're going to be able to get it for rent, probably like 10,000 or something. Then the conversation goes on and says he wants to talk to Mirano.

But my point why I think it's relevant is they're trying to put in this transcript saying the Salemmes came into control of The Channel in 1990. That's the point of the transcript, as far as I can tell. The tape from 1992 shows that the Salemmes don't have control of The Channel at that point. In fact, if we're saying whatever organization hadn't purchased it by '92 based on this other tape because now they're saying they can essentially get it for a song because the original owner still hadn't sold it and had filed for bankruptcy.

And so to put in something from 1990 when they apparently know from their own investigation that the Salemmes didn't have control of the club at that point --

THE COURT: I don't know what they're doing, but it seems to me that if the Salemmes are interested in the club as of 1990, that they're entitled to put that in. And you get to put in they may have been interested in it, but in 1992 they still didn't control it. I don't see why both those two pieces of evidence aren't relevant and don't come in. You can each make of it what you want to make of it.

MR. SHEA: I would humbly disagree.

THE COURT: That's fine. Mr. Ferland, do you have anything to add to that?

MR. FERLAND: No. I think Mr. Wyshak wanted to.

MR. WYSHAK: Just so the Court understands. In 1990 when they first were interested in purchasing The Channel, The Channel was in Chapter 11 bankruptcy. Mr. DiSarro actually went in as a manager and brought Mr. Salemme, Jr., into the business. They operated it for approximately two years and then could not agree on a financing term, and The Channel went into Chapter 7 bankruptcy. And they finally acquired it from the bankruptcy trustee.

So that's sort of the sequence of events. Both tapes are relevant. We'll call witnesses from The Channel

who well explain that sequence of events.

THE COURT: That's fine. As far as I'm concerned, we'll see how it plays out. At this point I think they're both relevant. Assuming there's appropriate foundations laid, they'll both come in. Mr. Boozang?

MR. BOOZANG: Nothing further, Judge.

THE COURT: Anybody else?

MR. CROWE: Could we request a batting order for the next couple of days?

THE COURT: Yes. I'd like to know it, too.

MR. FERLAND: So, Your Honor, after Mr. DeLuca, I suspect we'll go with retired special agent Brian Rossi, Roland Wheeler, and then retired special agent Vince DelaMontaigne. Beyond that it's kind of fluid.

THE COURT: Does that get us through Friday or no?

MR. FERLAND: No, I don't think that will get us through Friday. Judge, the Court will recall the sidebar with outside counsel.

THE COURT: Yes.

MR. FERLAND: So I suspect that we would get to that witness tomorrow as well, assuming we move along.

MR. CROWE: Who is that?

MR. FERLAND: Dezotell.

MR. BOOZANG: Judge, they've been good about at least a day, just a couple of days in advance because there's

20,000 plus documents. I want to make sure we have everything.

THE COURT: If you can give them two days in advance. I think what's happening is everything is taking longer and they're having trouble juggling who's in town or who's out of town. To the extent that you know, if you can give them a couple of days heads up, it will help expedite matters.

MR. FERLAND: We'd be happy to.

THE COURT: I don't think they're trying to --

MR. BOOZANG: I don't think they are, Judge. They've been great with the dates. We need it -- in all fairness, but they've been great with the date, Judge.

THE COURT: See everyone tomorrow.

THE CLERK: Court is adjourned.

(Court recessed at 1:43 p.m.)

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CERTIFICATION

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/ Joan M. Daly April 23, 2019

_____ _____

Joan M. Daly, RMR, CRR
Official Court Reporter

Date

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